

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

Via Electronic Filing  
in response to  
Notice of Proposed Rulemaking, FCC 13-100 (July 19, 2013)

**In the Matter of  
Modernizing the E-rate  
Program for Schools and  
Libraries**

)  
)  
)

**WC Docket No. 13-184**

**COMMENTS BY DAN KLEINMAN OF SAFELIBRARIES  
RELATED TO THE E-RATE 2.0 NOTICE OF PROPOSED  
RULEMAKING**

These comments are respectfully submitted by Dan Kleinman of SafeLibraries. I have observed for over a decade that communities are being misled by the American Library Association [ALA] into leaving themselves exposed to the very harms the Children's Internet Protection Act [CIPA] curtails. I advise communities how they have been misled so they can make informed decisions for themselves, not misinformed decisions that invariably mirror ALA policy, sometimes explicitly.

Ernest Istook, the CIPA author himself, has detailed exactly how and why ALA misleads American communities, then he names me as a "trusted source" for accurate information needed to become informed to overcome the ALA misinformation. [N28][N29] It is in that light that I make the following comments and support them with reliable sources or with links to my own writings that contain reliable sources.

[Notice of Proposed Rulemaking \[NPRM\] of 23 July 2013](#) paragraph 10 mentions reforms focused on "improving safeguards against fraud, waste, and abuse" and later

paragraphs seek comment on that. Paragraph 11 seeks comment on "improving the efficiency and administration of the program." Paragraph 270 requests comment on "the applicability of the Children's Internet Protection Act (CIPA) to devices brought into schools and libraries, and to devices provided by schools and libraries for at-home use." These will be the focus of my comments.

In general, I fully support funding under the E-rate program for schools and libraries, but I do not support fraud nor those who advocate, promote, or commit such fraud, including the ALA. And the administration of the program by the Universal Service Administration Company [USAC] needs improvements to help stem such fraud, so I will also comment on my experiences filing whistleblower reports over the years. Lastly, I neither support censorship nor am I a filtering advocate. I simply advise people about how they are being misled by the ALA. I trust they will make the right decisions for themselves after being fully and accurately informed.

Schools are most important. Let me start there. FCC should consider that schools providing devices such as iPads must provide for filtering both at school and at home. There is almost literally a flood of stories about school children using school-provided devices to access pornography when the devices are operated at home. I have been directly involved with assisting in getting the Colorado CCIPA amended to ensure filtering technology extends to the home. [N120] [N121] I am asking that you take action to maximize the chance that school iPads and similar devices are filtered both in school and at home.

As to public libraries, here is a list of libraries that I found receiving E-rate funding for "Internet Access" yet committing CIPA fraud as very little porn is ever blocked. There are likely many, many more like these. The libraries are rife with the very porn CIPA was designed to stop because the libraries are determined to sidestep CIPA's filtering requirements while benefitting from the financial benefits.

I personally investigated a number of supposedly CIPA compliant libraries before writing about them and, in the Brooklyn Public Library, for example,

found rampant porn viewing, a security guard walking a lost boy right past the porn viewers and doing nothing about that while the child was wide eyed staring at the screens and pulling on the guard's hand to slow him down, librarians and security guards who told me there is nothing they can do to stop the porn but they don't like it, and you could sit down in front of a computer, see through the worthless privacy screens, and click on the button allowing unfiltered access. Indeed the porn is so out of control in that library that the Brooklyn DA has referred people to me for assistance since the library does not assist. All this in a library getting millions of funding for "Internet Access" under CIPA. It's simply out and proud defiance of the law.

I list the various means by which CIPA fraud is committed in various libraries. End note references provide reliably sourced details of each fraud: **All libraries in the State of Michigan** that obtain CIPA funding for "Internet Access." To be CIPA complaint, all computers must be filtered.

Michigan has a state law that requires all libraries to leave one computer unfiltered. That violates CIPA. Hence all Michigan libraries obtaining funding for "Internet Access" are violating CIPA [N4] If I recall correctly, I reported this to the USAC Whistleblower hotline. To my knowledge, all Michigan libraries violating CIPA continue to benefit from CIPA year after year.

**Birmingham Public Library, Birmingham, AL.** This library is so rife with porn that two librarians separately sued for sexual harassment as a result of the effect of unfiltered porn on porn-viewing patrons and the library management said to one of you don't like it, then leave. This library explicitly follows ALA's anything-goes policy. It seems apparent it has filters that are either ineffective, ineffectively managed, or intentionally enfeebled in respect of ALA policy. [N6]

**Brooklyn Public Library, Brooklyn, NY.** This library is so rife with porn that the Brooklyn DA refers complaints to me. The library has a written policy that evidences it is CIPA complaint. In practice, however, it does something that is not in written policy. It allows patrons to unfilter the computers for themselves, and that violates CIPA. [N9]

**Brownsville Public Library, Brownsville, TX.** This library flat out does not filter all computers but claims it does to get CIPA funding. In reality, it only filters the computers intended for children, and that violates CIPA.

[N8]

**King County Library System, King County, WA.** This library adheres to ALA policy. It claims to comply with CIPA but, by policy, allows patrons to unfilter computers for themselves by use of a library card program to automatically drop the filters without any librarian intervention whatsoever. [N7] [N95]

**Maricopa County Library District, Gilbert, AZ.** This library has rampant crime that it was actively hiding from public view. Libraries having CIPA compliant filters managed effectively and in accordance with CIPA simply do not suffer rampant crimes, neither do they hide crimes from the police. [N3]

**Palm Beach County Libraries, Palm Beach County, FL.** The library has filters but allows unlimited pornography viewing claiming the First Amendment right to such material and claiming only material adjudged by a librarian as obscene may be blocked. See [N60]. Further evidence is provided below in the comment regarding the legal opinion of Palm Beach County Attorney Denise Nieman.

**Pierce County Library, Pierce County, Tacoma, WA.** In practice, the library allows open pornography viewing. Further, its policy contradicts CIPA saying porn gets First Amendment protection in public libraries unless a judge says otherwise, and "the Library System does not ... filter ... materials on the Internet." [N2] This library gets credit for being very responsive to my requests for information. This library won an award from the US IMLS despite the CIPA fraud. [N100]

**Tacoma Public Library, Tacoma, WA.** The library has rampant crime and its policy and practice permits patrons to unfilter the computers for themselves without having to ask as required by CIPA. This library gets credit for admitting that privacy screens do not work. [N5]

So basically fraud is committed by allowing patrons to unfilter computers for themselves, configuring library cards so filters are automatically removed, outright lying to the FCC as some libraries know all computers must be filters, using filters intentionally set to the very lowest levels, following policy that explicitly counters CIPA policy, or relying on legal opinions that are knowingly false and misleading and also based on ALA policy.

Sometimes crimes are hidden from police so as not to raise alarms. In most cases such libraries explicitly defer to ALA anything-goes policy. It is best to

look at the ALA, its policies, and the effect of its policies.

First, after having listed the many libraries defrauding the E-rate program, for multi millions of dollars each year, and after having listed the reasons for the fraud, it is time to discuss the FCC's administrative body, USAC.

Look at that list. Look how some libraries have written policies that go counter to CIPA compliance. CIPA says patrons must ask a librarian or the appropriate person to drop any filter, but the policies explicitly sidestep that and allow patrons to unfilter computers for themselves either by clicking a button or by having a library card programmed to drop the filters. Yet these libraries still obtain CIPA funding for "Internet Access." USAC failed to discover this or ignored this again and again. A simple look at a library's web site would unearth library policy, and that policy indicates the library may or may not be CIPA complaint. How USAC awards CIPA grants to such libraries under such circumstances is beyond me.

And at least one USAC employee told me on the phone that such patron self-action to disable filters violates CIPA. So USAC knows this is wrong, yet it does nothing.

Worse, I have reported a number of libraries to USAC's Whistleblower Hotline. I specifically pointed out the policy that counters CIPA. I even recall in one case ensuring the USAC employee was on the same page as me, literally, we read the language on a library's web site allowing patrons to unfilter for themselves, agreed that violates CIPA, yet those libraries continue to obtain CIPA funding.

And as I look at the record of library funding over the years that USAC makes available, I never see any indication that the libraries committing CIPA fraud ever suffer any consequences of any kind, and often the funding simply increases. As far as I can see, one could advise libraries that there are absolutely no consequences for E-rate program fraud in public libraries and be 100% accurate. Simply look at the libraries committing fraud over the years and look how the funding stays steady or increases. Even all the libraries accepting E-rate funding for "Internet Access" in the entire state of

Michigan continue to get CIPA funding despite state law making that impossible. In other words, it is legally impossible to comply with CIPA throughout the entire state of Michigan, yet many Michigan libraries continue to obtain CIPA funding for "Internet Access."

And the process of filing complaints is not easy. Add to that that USAC never, not once, ever gets back to you for any reason whatsoever, not even for a clarification, let alone for a rebuttal. The USAC employees who handled my calls were very nice and customer friendly and willing to listen, so no problem there. But after that a whistleblower is completely cut out of the system. I was told by a USAC employee that the only way I could check on the progress of the matter was to watch to see if the funding in future years was cut off. Well it has been years and the funding is never cut off for any library I have reported.

I am hoping something is done to make the process transparent to whistleblowers. I have never seen anything ever be more opaque. And I have spent years reporting libraries and I feel it was a complete and total waste of time since no library even suffers any consequences as a result of my reports. And my reports are extremely detailed as they are posted on my blog, then my blog post is provided as the evidence for the fraud, and I quote library policy and USAC funding amounts, as well as other reliable sources.

In summary, my experiences with USAC as a whistleblower over the years have been customer friendly, but after that the process is completely opaque, and no library ever suffers a loss of funding as a result of CIPA fraud. I urge FCC to take action in this regard. At this point I am completely discouraged from filing more reports because years of experience tells me it makes no difference and the fraud continues unabated.

I am indeed aware of more fraud in more libraries, some reported to me by librarians afraid to speak out and afraid to lose their jobs for speaking out but hoping I can do something to stop the unlimited porn and the resultant sexual harassment they suffer on a daily basis. It is very sad that librarians have to ask me for assistance in getting libraries to comply with the law, and they have to do so in fear. I can report the libraries for fraud but I can't make

USAC act in accordance with the law. You can. Please do. Many librarians have no other recourse and will not make job ending statements.

Now back to the ALA and how it misleads communities. ALA uses its unique position to pressure libraries nationwide to sidestep CIPA or to cleverly defy it, and does so in a deceptive manner. CIPA author Ernest Istook even calls it "propagandized." [N28] "They misdefined the missions of public libraries and they do it in a way that I think most people would totally disagree with, but they couch it in different language so you don't fully understand what they truly mean." [N28]

The result is community libraries are misled into leaving people exposed to the very harms CIPA was designed to curtail. And this occurs whether or not the library claims CIPA compliance. As a result, the E-rate program is defrauded of millions of dollars every year.

USAC seems to me to be incapable of stopping any CIPA fraud. Indeed CIPA fraud seems to be so ingrained or expected that a federal agency called the Institute of Museum and Library Services [IMLS] awarded one CIPA-defrauding library with its "National Medal for Museum and Library Service." [N100]

But where is the smoking gun? It is in the language of ALA policy. Such policy explicitly recommends some of the very means actually used by different libraries to defraud the E-rate program. [N27][N34] For example, ALA's "Children's Internet Protection Act (CIPA) Legal FAQ" [N34] states, and I quote:

A library can segregate computers for unfiltered Internet access by adults.

Adults wishing to use those computers would sign a form, display identification, etc., indicating that (1) the patron is 17 and over, and (2) the patron seeks unfiltered Internet access "for lawful purposes." The library would be responsible for ensuring that only adults gain access to these Internet terminals.

The library can adopt a so-called "smart card" system, under which patrons use a plastic card (similar to a credit card or library card) to gain access to the Internet from library terminals. Each card automatically would

indicate whether the patron is an adult. The Internet terminals could then offer adult patrons the option of Internet access with the filter enabled or disabled. The library's "welcome" screen could ask the adult patron whether he or she wanted filtered Internet access (presumably accompanied by a message explaining the inherent flaws of blocking software). If the patron selects unfiltered access, the next screen could include a message stating: "Click here if you wish the library to disable the entire filter during your Internet session. By clicking on this box, you declare that you will use the Internet for lawful purposes." Upon the patron's assent, the terminal could provide unfiltered Internet access.

No, a library may not "segregate computers for unfiltered Internet access by adults" and still be CIPA compliant as CIPA requires all computers to be filtered. No, a library may not "adopt a so-called 'smart card' system ... to gain access to the Internet from library terminals" as that would violate CIPA that requires someone to change filter settings. "The library's 'welcome' screen could ask the adult patron whether he or she wanted filtered Internet access." That too violates CIPA. "Upon the patron's assent, the terminal could provide unfiltered Internet access." No, that violates CIPA. Even USAC employees told me this. The results such as in the Brooklyn Public Library speak for themselves.

Notice many of the libraries committing E-rate program fraud do so using the very means provided on the ALA's "Legal FAQ" page. This is one way ALA misleads communities. It recommends filtering means for libraries seeking E-rate funding that it knows violate CIPA. This is the smoking gun. Sure ALA provides a legal disclaimer in bold type, but it is simply false to say ALA does not know if violating CIPA is violating CIPA.

Let me illustrate another way ALA misleads communities. ALA will censor out messages it does not want the community to hear. It will blacklist organizations it wants librarians to stop promoting. It will be so brazen about this, it will even discuss this in public.

Chelsea Clinton joined the Board of Directors of [Common Sense Media](http://www.common sense media.org/).  
<http://www.common sense media.org/> That's how significant this organization



is, but even she does not save it from ALA wrath. "Common Sense Media is dedicated to improving the lives of kids and families by providing the trustworthy information, education, and independent voice they need to thrive in a world of media and technology." Common Sense Media provides content ratings parents can use to make informed decisions about what media to make available to their own children, and ALA calls that "censorship."

And that was Common Sense Media's big sin, informing parents about the appropriateness of media content. For that, ALA stripped Common Sense Media out of its Great Web Sites listings. ALA notified all ALA members, all state library associations, and all library schools about Common Sense Media's sins. Mind you, ALA is an organization opposing censorship, yet it practices it itself. ALA is an organization opposing blacklisting of authors, yet it practices it itself. Here is the proof [N180], and I quote:

Common Sense Media

The issue: This non-profit organization reviews and labels books, movies, music, websites, games, apps, and television. Using icons such as martini glasses to represent alcohol/drugs, lips to represent sex, and bombs to represent violence – they review and label all forms of media.

Areas of concern:

This type of labeling and rating is in opposition to ALA's position on labeling and rating, as well as AASL's position on labeling.

Children and Teen librarians using Common Sense Media as a selection tool. Common Sense Media reviews have been used to help censor materials in certain locations.

Lack of understanding as to what Common Sense Media does

ALSC used Common Sense Media on a great websites list until it was caught and removed from the list. ALA did not endorse it. Additional ALSC committees wanted to endorse it.

This resource is promoted as an alternative, unbiased tool for families and educators. They are currently running commercials on TV aimed at parents.

We met with the other IFC youth division representatives (AASL and ALSC) to discuss strategies. Ideas discussed included:

Raising awareness of Common Sense Media within ALA youth divisions

Seeking help from State Chapters

Utilizing ALSC and YALSA free lists as an alternative to Booklist for

libraries that cannot afford to buy expensive review sources.

Raising awareness in divisions and subdivisions

Raising awareness in library school programs

### **YALSA Involvement**

I will write a YALSA Blog post to raise awareness about Common Sense Media and similar practices.

Can YALSA offer any ideas/support? (RUSA has offered funds to help raise awareness through the development of an app or other resource yet to be determined)

Remember, that censorship of Common Sense Media by the American Library Association, and that detailed and pervasive blacklisting of Common Sense Media, right down into the library schools, comes from the "Intellectual Freedom Committee." [N180] When ALA argues Internet filters violate intellectual freedom, we now know true intellectual freedom has nothing to do with the ALA's "intellectual freedom" organizations. Instead, intellectual freedom is used as a bludgeon or straight jacket by ALA to silence the free speech of those ALA opposes, in this case Common Sense Media.

ALA manipulates people and messages to shape its desired outcome. Can anyone imagine ALA would have a "concern" about "Children and Teen librarians using Common Sense Media as a selection tool," as if that is bad?

And ALA is actively working against FCC and community interests by doing what it can to prevent the use of filters, not improve the chances for their use by improving the E-rate program. Just last month, the very leader of the ALA's Office for Intellectual Freedom, Barbara Jones, said, parentheses and emphasis in original, "(Filters are a HUGE issue here in the USA and we are trying very hard to contain the damage caused by them (in my opinion))."

[N40] So ALA's top leader's opinion on library filters is that they cause "damage." This after she was forced into admitting filters work, work well, no longer block health-related information, and blocking breast cancer is an old excuse. [N31] And the week before that she said the exact opposite, that filters block breast cancer and that's an "ideal example" that filters do not work. [N32]

ALA follows though on this effort to stem the "damage" by misadvising the public about the law. When someone I know from a Facebook group called "Stop Porn Culture" decided to call the ALA to ask for information, unbeknownst and without any prompting from me, they reported that the person with whom they spoke advised them that Internet filters do not work and that patrons have a First Amendment right to pornography in public libraries.

"The ALA spokesperson just informed me that it is a first amendment right to view porn in public libraries, within view of the children, and that libraries must allow porn under the law. Wow. I asked her how well she sleeps at night..." "Her name was Charlotte or Charlene...she was full of government rhetoric..I didn't write anything down because my child woke from a nap and I proceeded to get her some lunch...but you can call too..it was super easy to get her on the phone.." "I went to the Facebook page for ALA...they have an option to call them right on the page from your mobile." "She just kept going on and on about how 'everyone has their own opinion of what is pornographic.'" "Oh, and the woman kept talking about how 'filters don't work', just like you wrote in the link above. Bullshit!"

Another person was so irate about this that she responded with this: Jacqueline S. Homan: It is NOT a "1st amendment right" to view the violation of someone else's privacy. Many women in porn are TRAFFICKED, and are FORCED. When I was "broken in" by my traffickers, it was with a brutal gang rape. I was 14 years old. My gang rape was captured on film/pictures to satiate others' sadistic voyeurism AGAINST my will. As a trafficked girl, where was MY right to privacy? What about MY 1st amendment right to have my "free speech" (my language of "NO!") protected? The ALA is full of ca-ca. And I will tell them so! And I dare them, no I DOUBLE DARE them, to defend that bs to me! You may quote me, Dan Kleinman.

The point of this is that the FCC must devise some means to simplify E-rate program information so much that libraries no longer seek out ALA's false fount of misinformation. FCC must learn exactly how ALA is misleading people and what misleading misinformation is being provided. FCC must

then counteract the ALA misinformation in some meaningful way. FCC, if you do nothing about the problem of the ALA flat out misleading people about the E-rate program, you will be allowing this situation to continue. I realize finding and implementing a working solution might well be difficult, but it must be done. Too many people are significantly injured nationwide as a result of the ALA's porn-promotion policies for FCC to take no action in this aspect of the matter.

And the entire ALA structure devoted to promoting this policy started with a single person, a three year Illinois ACLU Board member who joined ALA and changed forever how librarians interact with children and with communities generally. Someone somewhere has to stop the proliferation of these harmful ACLU-cum-ALA policies. FCC could go a long way heading in that direction by acting to counteract ALA's misdirection with accurate information and with transparency of the E-rate program. There's no need to take on the ALA directly, merely improve the E-rate program to the point where ALA no longer sits as authority on CIPA compliance and the like.

FCC should be the authority on the E-rate program, not ALA that actively works to thwart it by any means necessary.

FCC should explain clearly that the US Supreme Court said there is no First Amendment right to porn in public libraries, that pornographic materials may be blocked, that they may stay blocked even after request, and that having first been adjudged obscene is not a necessary condition to block material. If only material adjudged as obscene is all that can be blocked, then the whole of CIPA and the whole of the US Supreme Court case does absolutely nothing.

FCC should explain clearly that the issue in the US Supreme Court case of *United States v. American Library Association* is pornography in public libraries. ALA works hard to stop people from talking about pornography in libraries [N21][N32][N89][N164] precisely because that is the very issue addressed by the Court that found CIPA to be constitutional. If you can get people to stop talking about the issue, you've already won. So ALA turns attention away from pornography to obscenity and child pornography, thereby making it infinitely harder to remove porn from public libraries since

you can't talk about it.

ALA calls pornography "information" or "constitutionally protected material." It is constitutionally protected, but not in public libraries, and ALA itself lost in the US Supreme Court on this very issue. It is attempting to reverse the CIPA decision by misleading people into ignoring *US v. ALA*. As CIPA author Ernest Istook put it, "Now, if you want to have a look at the website of the American Library Association and read their comments about this, uh, you would almost think that they won the case. They have a *very* misleading and, uh, propagandized account of what happened in this particular lawsuit." [N28]

Here's another example of the sheer disdain ALA holds for CIPA and the E-rate program and the power it wields to affect its ACLU/ALA worldview in libraries nationwide. ALA runs training programs for state library associations that provide training for new library trustees throughout their states. That training program teaches the exact opposite of the law in the US Supreme Court case that found CIPA to be constitutional. The Court said public libraries are not open public fora where anything goes. That was key to the case. That's why libraries have every right to block porn, besides libraries have always blocked porn via book selection policies. ALA teaches the opposite. It teaches libraries are open public fora where anything goes. Porn may not be blocked. Those newly propagandized library trustees then go back to their libraries and are the perfect people in the perfect positions to push ALA's anything-goes policy on communities. [N20]

FCC must help to overcome ALA misdirection because librarians are afraid to act. Many librarians are afraid to speak out. Ironically, they work in a profession where wrong speech is punished and right speech is rewarded. As a result, few if any will comment in any way that may jeopardize their job or reputation. I am revealing information about the many librarians being sexually harassed as a result of library policy to circumvent CIPA, and I help and support them. ALA never once helps them. Never. Many other librarians are facing similar dangers but are afraid to speak out. I am hoping in some way that my words can speak for them as well. You see, children are not the only victims of an anything-goes policy.

One technique ALA uses against librarians who speak out is personal attack. For example, ALA's leading expert on filtering technology is Sarah Houghton. When ALA responded in "Filtering and the First Amendment; When Is It Okay to Block Speech Online?" [N21] within days of being labeled in nationwide media as one of the nation's leading facilitators of porn and sexual harassment of women as a result of my research [N25], it responded with the leading "resource" being a work by Ms. Houghton. That work names me saying, "Finally, the influence of outside lobbying groups on local Internet filtering policies in libraries should not be understated. Some groups, such as the Values Advocacy Council and SafeLibraries.org, have local affiliate organizations and members that try to get Internet filters into local school and public libraries." So I'm on her radar. And just recently Electronic Frontier Foundation [EFF] wrote "The Cost of Censorship in Libraries: 10 Years Under the Children's Internet Protection Act" wherein Ms. Houghton was cited for her analysis of filtering technology. Just last month she presented in an ALA training webinar and even responded to a question I had about the Deep Web. Here she is talking of both:

[@librarianbyday](#) The [@eff](#) just pulled data from my report. EFF was at the CIPA/ALA/Google event in July & I talked about my research there.  
— Sarah Houghton (@TheLiB) [September 6, 2013](#)

So when she wrote on her own blog a new post entitled "Symposium on Revisiting the Children's Internet Protection Act," I commented online to ask her about how one ALA leader said Internet filters work, work well, and no longer block health-related information. This is the exact opposite of what her research concludes, it is far more recent, and it comes right from the leader of ALA's so-called "Office for Intellectual Freedom." So I wanted to learn what she thought about that given she is the ALA expert on filtering technology and given she had just answered a question of mine at an ALA webinar. She did not respond as she did at the webinar.

Censorship was her first response. She simply deleted my comment. When I

wrote again, her second response was personal attack consisting of false statements about supposedly bad behavior and that I "prevent people from having access to Constitutionally protected material." She simply refused to address the issue I raised, that the ALA leader was forced by the *Bradburn v. NCRL* library director to admit filters work and breast cancer was an old excuse. [N30] Instead she responded with 1) censorship, then 2) false and personal attack. Then she removed all past comments of mine and blocked me from following her @TheLIB on Twitter. And this is the ALA's leading expert on filtering technology.

By the way, she wrote, "Sarah hates filters & filters hate Sarah. It's no secret that I think internet filters are not only unethical and counter to everything librarians believe in, but that filters also don't work for crap." (Hat tip Mary Minow) It's no wonder Sarah Houghton is ALA's leading expert on filtering technology.

This is an example of why librarians are afraid to speak out. As a volunteer librarian, I cannot be fired; I have no such fear of the ALA.

And here is ALA Councilor Patrick Sweeney, meaning one of the ALA leaders, responding as @PCSweeney to an article I did not write but telling people someone in my organization did. Then, true to form as illustrated with Ms. Houghton, Mr. Sweeney suggested people censor me, then he went for the personal attack:

[@gollydamn](#) This guy writes for Safelibraries.org, please don't mention his postings online or he feels empowered!

— pcsweeney (@pcsweeney) [June 29, 2011](#)

[@katieum](#) please don't feed the trolls. He's a creeper and runs safelibraries.org. He's one meth hit away from tinfoil hat status.

— pcsweeney (@pcsweeney) [June 29, 2011](#)

I raise this not to complain but to illustrate one small example of why many librarians are afraid to speak out for fear of such censorious and potentially job-impacting tactics, so please pay careful attention to what I am disclosing in respect of the many who are afraid to speak. I could provide more examples if requested. Please, FCC, act for all the librarians who cannot.

So what could all the ALA censorship and name calling be hiding? Library filters work, work well, no longer block health related information, and claiming they block breast cancer to scare people is an old excuse. It's as simple as that. Even the ALA's top leader admitted that. [N30][N89] That's why ALA's leading filtering technology expert censored out my comments then made harmful, false statements about me when I raised that very issue. Let's look further into the substantive issue that library filters work well, the issue ALA does not want people to hear, and issue that is central to the FCC's NPRM regarding CIPA.

I referenced the ALA leader saying filters work, work well, no longer block health related sites, and the claim of the blocking of breast cancer is an old excuse. [N30][N89] See said that on 25 January 2012. How old an excuse? The very same ALA leader used that very excuse just days before to mislead people nationwide in the highly visible *Huffington Post*. So how trustworthy can the ALA be?

On 25 January 2012, Barbara Jones wrote in the *Huffington Post* [N31]: Research shows time and again that filters end up blocking content that is not only legal but is important for adults to be able to view. And sometimes filters let content through that might be inappropriate for children. An ideal example is the word, "breast," which many filters block. The problem is that in addition to blocking what might be offensive content, the filter also blocks "breast cancer." And so the only solution is for parents, teachers, librarians, and other community leaders to work with Internet users. Filters won't do it for them.

A week later, on 1 February 2012, Barbara Jones was forced to reverse herself and admit library filters work well when library director Dean Marney



called her bluff in a radio broadcast. [N89] She said:

"Um, I would like to say that the breast cancer example probably is kind of old these days...." "Filters have gotten better because people have more control...."

So the ALA leader who stated filters don't work one week was forced to admit they do a week later. And the ALA's leading expert on filtering technology removed my comment discussing the ALA leader's admissions against interest then personally attacked me. This is the method by which ALA addresses substantive issues, namely, lies/diversion, censorship, and personal attack.

It is important to see/read what CIPA author Ernest Istook had to say about the legislative history of CIPA, how ALA seriously misleads communities, even how USAC may not be effective and "watchdogs" and "trusted sources" such as myself must be consulted. You'll not see this in any library media since it is the very kind of information they suppress; it goes against their anything-goes message. Just like they censor and suppress Common Sense Media, they also suppress CIPA's author.

Ernest Istook has made two major statements on CIPA and the ALA of which I'm aware, both of which have been suppressed by library media, even after I challenged the editor-in-chief of one, Francine Fialkoff of *Library Journal*, to publish it. She refused. [N41] CIPA was the biggest library news/legal case ever and was all over library media, until, of course, CIPA's author said something truthful that went against the grain. One was a written publication [N29] and the other was an interview [N28]. I had the interview transcribed just so I can include it because of how significant it is regarding a reexamination of CIPA by FCC. I will link both, then incorporate them here for your convenience, for inclusion in the record, and because no other library or library media source will reveal them:

"Children's Internet Protection Act Author Ernest Istook Interviewed," by **Dawn Hawkins**, *Morality in Media*, 17 April 2012.

<http://tinyurl.com/ErnestIstookInterview>

"Libraries Need Not Expose Kids to Porn," by **Ernest Istook**, *The Heritage Foundation*, 27 February 2012.

<http://web.archive.org/web/20120302213508/http://www.sacbee.com/2>

"[Children's Internet Protection Act Author Ernest Istook Interviewed](#),"

by **Dawn Hawkins**,

*Morality in Media*,

17 April 2012

<http://tinyurl.com/ErnestIstookInterview>

## **F U L L   T R A N S C R I P T**

### **Interview of Ernest Istook**

**Author of the Children's Internet Protection Act  
conducted by Dawn Hawkins of Morality in Media  
17 April 2012**

**Dawn:** Hi, everyone. I'm Dawn Hawkins with Morality in Media and PornographyHarms and I'm here with Congressman, former-

**Ernest:** Former.

**Dawn:** Congressman.

**Ernest:** Yes.

**Dawn:** Ernest Istook. Um, we, he works, he's a distinguished fellow at the Heritage Foundation and served in the United States House of Representatives for, is it fourteen years?

**Ernest:** Fourteen years, right. I'm in recovery now as I tell people.

**Dawn:** (laughs) And, but while he was there, he authored the Children's Internet Protection Act which is very important to a number of things that

we're doing at Morality in Media. As many of you know, we direct the Safe School Safe Libraries Project. The goal of that is to get filters installed on every computer in, um, in public libraries and then schools to help protect children and other patrons from exposure to pornography and the many harms associated with that in those places. We've, we've had a lot of success so far in this project. There are over 60, I think we have 63 people right now, who are volunteering and working in their local communities to urge their libraries and schools to install filters.

But the thing is that there is a federal law in existence that Mr. Istook helped to author that, um, mandates that libraries and schools have filters and provides funding for them. So, we just wanted to talk about that a little bit more and so maybe we can just delve right in.

Can you tell us about Children's Internet Protection Act?

**Ernest:** Sure, I think for those interested in legislative history, how this came about, uh, and this is one reason that maybe the story is not as well known because during my fourteen years in Congress, I served on the House Appropriations Committee all fourteen years. Now the Appropriations Committee deals with almost everything because just about everything the federal government does involves money.

**Dawn:** Has to go through them.

**Ernest:** Yeah. So that's one of the reasons I enjoyed being on the Appropriations Committee, because it gave me the opportunity to delve into a lot of different issues. There had been many pieces of legislation that Congress [00:02:00] had enacted that sought to address the problem of Internet pornography, especially the threat that it had to children. Those consistently were thrown out by the courts, saying it was an unconstitutional infringement upon free speech.

However, we took a different approach with the Children's Internet Protection Act, and rather than being legislation that originated through the House Judiciary Committee or the Senate Judiciary Committee, which was what had

happened with these others, because it came through the Appropriations Committee and people in my office, Dr. Bill Duncan was especially involved in this, we put together legislation that rather than saying there was an outright prohibition on certain Internet pornography, we said that if the federal government is paying for something, we will add some restrictions.

This is a classic use of the appropriations process to say there are strings attached to federal money. Many times those strings are negative in what they seek to make people do or prevent them from doing.

In this case, this was the way we accomplished something positive because consistently, the courts have said Congress has the authority to place limits on how federal money is used and you can adopt public policy through restrictions on federal spending rather than restrictions on everything else. That's the approach that we took.

So, it was accomplished not in a freestanding piece of legislation but as a rider on an appropriations bill. I served on the relevant subcommittee, the Health Human Services and Education and Labor subcommittee in the House and successfully got this attached during the committee process so that it was part of the spending bill for education, for labor, for human services and so forth, and it was attached to that bill. So, nobody could vote against the Children's Internet Protection Act unless they voted against the entire bill or unless they were able to strip it out from the bill [00:04:00], and that made it, that gave it some advantages in getting this enacted.

It held down the opposition and frankly, um, some of the classic opponents of things such as this like the ACLU and the American Library Association had a more difficult time opposing this effort because of the way that we went about it. So, I like to think that we made a pretty good use of the congressional process in this way.

**Dawn:** It worked.

**Ernest:** Yeah.

**Dawn:** (chuckles) But what does that Children's Internet Protection Act

mean, what is the law, what does it do?

**Ernest:** Sure. It says that if you are a school or if you are a library that receives federal funding for Internet access such as the E-rate provisions or if you receive federal funding for computers or connectivity of computers, if you are receiving federal funding in any of those ways, you are required to use the filtering software to make the effort to screen out things that are harmful to minors, most importantly pornography in that. And this became a condition of receiving that federal money, and if you don't put the filters on to protect the children, you're not going to get the federal money.

**Dawn:** Okay.

**Ernest:** School systems and libraries are pretty heavy users of federal spending in this way. So, this was a significant qualification on getting their funds.

**Dawn:** Okay. So, I guess one question is then why does every library and school not have these filters. Why do they not have them?

**Ernest:** Oh, that's a great question. And let me tell you something about my background that people involved in the webinar may not know.

**Dawn:** I forgot, one of the most important parts.

**Ernest:** Yeah. I used to be the chairman of a library system in central Oklahoma.

**Dawn:** Right.

**Ernest:** We have a consolidated system that has all the Oklahoma City area and several other surrounding counties are part of the Metropolitan library system. I served on the board for several years, uh, I was one of the officers and then I was the chairman of the library system for several years. So, I certainly have a familiarity and frankly, a love and appreciation for public libraries. Um, I really admire Andrew Carnegie for what he did [00:06:00] to

establish public libraries all across the country.

I think the ability for people no matter what your own education may be, no matter what your financial status may be, the ability to go to a public library and access things where you can learn, you can get ahead, uh, or you can just read for pleasure, if that's what you want, um, it's a great thing to have public libraries that are freely available to people and I would hate to see them go downhill because they no longer became a safe place for someone to take their kids or to send their kids. How many mothers drop off a child or how many fathers for that matter on a Saturday afternoon and say, hey, spend the afternoon at the library. I have wonderful memories of afternoons that I spent at the libraries growing up or sometimes, evenings, uh, at the public library, you know, it just opens up a wonderful world, but you want it to be a safe world for children and to take one of these great environments of our democracy and to taint it by saying, it will no longer be a safe place for kids, because the American Library Association takes the position that you cannot restrict people's access and therefore, sorry, if your kids are seeing things that are totally inappropriate and harmful like that, well, that's just the way it works. That's a pretty poor attitude and having served as the chairman of a library system, I thought it was inconsistent with the purposes of public libraries.

**Dawn:** Mm-hmm. Um, talking more about the American Library Association and the ACLU, you mentioned that they were very much against this but why, why are they against the Children's Internet Protection Act and against libraries filtering out harmful things like pornography?

**Ernest:** Sure. Well, a couple of different reasons. One is they make an error in trying to define what actually is censorship. If I say that you cannot publish something and I use the power of government to prevent you even from publishing something, then government is in effect censoring that. It's government action and it's restricting [00:08:00] access through *any* mechanism.

However, if the government says we are going to be selective in what we pay for, just like a library does not buy every book that's published, they do not

buy every magazine that's published, they do not subscribe to every online service that's available. They're selective and they should be. They do it for a couple of purposes. One obviously is financial. The other is what is appropriate, just like we have some libraries that are limited in their scope: maybe a technical library, a geological library, one of many examples.

So, these organizations use a wrongful definition of censorship. They say if you don't *pay* for something, you're censoring it. Well, how backwards is that? Does that mean that every time that I go to a bookstore and I do not buy most of the books that are on the shelf, I have censored them by not buying them? It's a totally absurd argument, but they make it and they try to say that if you don't put certain books on the shelf or if you, uh, don't, uh, purchase them or make them available, somehow you're exercising censorship, so that's the first error, they give a totally warped impression of what censorship is. That's one of their arguments.

The other one is to say, well, our mission is to make everything available to everybody. Tell that to the patrons, to the citizens who pay the taxes for the public libraries. Tell them that the purpose of the public library is to be totally wide open, anything goes, whatever it may be. This is the place you could find anything you wanted to. You don't have to hang out at the, uh, the back magazine corner of a newsstand. You don't have to be surreptitious in what you're trying to do online. Anything goes at the public library. They misdefined the missions of public libraries and they do it in a way that I think most people would totally disagree with, but they couch it in different language so you don't fully understand what they truly mean.

So those are the two things, one, a misapplication of what is actually censorship [00:10:00], and secondly, a misstatement of the mission of public libraries. If you talk to the public and you ask *them* the purpose of public libraries, it would be very different than what you would hear from the ALA or the ACLU.

**Dawn:** That's interesting. So, I know that the ALA challenged the law.

**Ernest:** They did.

**Dawn:** Was it in 2003, 2004? And then the Supreme Court?

**Ernest:** I think the suit was filed in 2001 in decided in 2003.

**Dawn:** What happened there?

**Ernest:** Okay. Well, very quickly, after, uh, we got this language enacted as a part of the appropriations bill, and I want to give some praise to Arizona Senator John McCain who was helping on the Senate side in getting this through the House Senate Conference Committee on this because there were some people in the Senate that didn't think this belonged on an appropriations bill even though they typically attach all sorts of other things to appropriations bills and Senator McCain was the champion on the Senate side, uh, to help get this accomplished.

**Dawn:** Okay.

**Ernest:** So, I want to make sure I get a shout out, a compliment to Senator McCain on that but, uh, then as soon as it got enacted of course, the American Library, uh, Association said we're going to file a suit. They went to a court that they knew was going to be predisposed to be friendly toward them, uh, to get injunctions and to get an original court ruling in their favor. But of course, that was taken up on appeal. I worked with the US Solicitor General's office part of, and the Attorney General's office, uh, in their defense of the constitutionality of this law and it went up to the US Supreme Court which ultimately ruled by a six to three margin, indeed, this is constitutional and in fact they had some excellent language that they utilize in their decision, making it clear that a public library is *not* meant to be a place where you can access absolutely anything and everything.

Libraries should *exercise* responsible judgment in deciding what *is* appropriate to be on library shelf or not, and they certainly dismissed up the argument that somehow this was [00:12:00] censorship because it was a reasonable restriction on the expenditure of public money. So, the language in that decision, uh, is very good. It was very reassuring, uh, to see that the



Supreme Court came out in our favor.

Now, if you want to have a look at the website of the American Library Association and read their comments about this, uh, you would almost think that they won the case.

**Dawn:** Right, yes, yes.

**Ernest:** They have a *very* misleading and, uh, propagandized account of what happened in this particular lawsuit.

**Dawn:** That's why we're here right now, because it is hard to figure out really what the truth is, what has happened, what the laws are, because it seems like a lot of libraries that we have worked with, they themselves are totally misled on their rights and ability to filter and, um, because the American Library Association is feeding them stuff like this.

**Ernest:** Right.

**Dawn:** Um, it's easy to see it on their website. Uh, are you familiar with the case that was just, um, ruled in Washington State, the Washington State Supreme Court last week [00:13:00]?

**Ernest:** I have some familiarity with it, yes.

**Dawn:** I, um, I just want to, one point I've realized, the American Library Association has argued that, um, it's unconstitutional to have people go ask the librarian to take down a filter because they want to view something that is protected. So, say that I'm researching breast cancer, I don't know very much about it, I go to my library and I, and it's filtered, I can't see that? Well, then I'll just go to my librarian and I ask her to take down the filter and tell her why and she'll, she'll do it.

**Ernest:** Right.

**Dawn:** Um-

**Ernest:** And the law makes provisions for that.

**Dawn:** And the law makes provisions for that, but the ALA, it seems in my understanding, is arguing that that is unconstitutional to have to even ask.

Well the Washington State Supreme Court and the US Supreme Court have said that that's not unconstitutional to have to just go ask for the filter to be removed, correct?

**Ernest:** Exactly right. It's really kind of ridiculous how they say, oh what a burden it is to people to have to go to ask the librarian to remove the filter [00:14:00]. Now, do they think there's some sort of stigma attached to that?

If that's the case, why isn't there a stigma attached if somebody is freely accessing pornography through a library computer in full view of the *children* that are using the library? It's really to me, to my way of thinking, some very absurd arguments they make. After all, you know, if you couldn't find something else that you're looking for at the library, is it an improper burden upon you to go to the librarian or the reference desk or the circulation desk and say, I can't find something, will you help me find it? Oh my goodness, what a horrible burden you put on people.

**Dawn:** Another thing that I realized in all of our, in our efforts to get libraries filtered, is that a lot of libraries are saying we can only filter the area where the children are. But children are using computers elsewhere in the library and they're walking all around the library and so, is that true, does the law say that it's only the children's section, computers or does it say generally?

**Ernest:** It says any computer to which minors can have access, oh, which could be in the general section as well as in the children's only section. I mean if you've ever seen a librarian chase a child and say, Ah-ah-ah, you can't use this computer, go over there to the kids section. A lot of kids are, you know, using other portions of the library. When I was young, uh, you know I wasn't just reading things that were in the kids section of the library, I was reading things throughout the library. That's part of the purpose of it.

So, it says, you know, if you're making this available where, you know,

children could have access or could be seeing it, then you have to apply the filtering software. You know if you want to create some room off, you know, closet it off from every place else, uh, that would be a different case, but that's not the way libraries function.

**Dawn:** Okay, um, I recently did a search of news articles. I just did it the last six months and I pulled, I put them on an Excel spreadsheet, there were 380, uh, news articles that are talking about patrons accessing pornography in the library and this is happening in big cities, in small rural communities, it's happening everywhere. And as a result, these patrons are [00:16:00] downloading child pornography, they're printing off pornography and leaving it around the library for other children and patrons to see. Um, in some cases, they have viewed pornography and then immediately after, um, taken children to the restroom or some other secluded area in the library and molested and raped them. Um, a lot, a number of librarians have reported that they have been being stalked, harassed, sexually harassed, um, and it's all from patrons who are regularly viewing pornography on the computer. So, this is a huge problem, I mean 380 instances, and that's only what's reported. I looked on Twitter just out of curiosity and I searched the keywords, porn and library and there were 20 just yesterday. Tweets ...

**Ernest:** Right.

**Dawn:** ... of people that are like, the guy next to me is looking up porn; I'm at the library. This is a huge problem even though there's a law, so why don't these libraries actually have filters on, how are they getting around?

**Ernest:** There's often a difference between the librarian that's actually working, the circulation counter and stacks or whatever, and what some library leadership may be doing making decisions. Many librarians complain that if you make pornography freely accessible, oh, and the behaviors that come with it, you create a hostile work environment. Oh, and, you know, there've been lawsuits brought by them. I don't think the law has become settled, uh, in that area on lawsuits brought by librarians there, but a library is considered, of course, a public place, it's paid for with public money, just as a public park, uh, is a public place, a city hall is a public place, a library is a

public place.

So, when it comes to the laws relating to access, to vagrancy or loitering or other behaviors and so forth, the courts have consistently held that it's a public forum in that particular sense, and therefore, therefore, if you have some people that may not be the most attractive citizens, let us say, that want to hang out at the library, well, they have the right there, so, [00:18:00] library, libraries will adopt codes of conduct, you know, whether - it's not just a matter of holding your voice down. You know, no smoking, no eating, uh, no drinking, uh, all the different things you may have there. There's issues sometimes when libraries have homeless people come in with, uh, a great amount of body odor, oh, and so they have to deal with all sorts of problems such as this. But that doesn't mean that you cannot take steps when you can. That's why libraries *do* adopt policies. They *do* adopt codes of conducts to try to make this an environment that is clean, accessible, useful, comfortable, attractive to other people, and that extends of course to what we're talking about here, uh, in the realm of pornography. So, libraries have to make decisions like this all the time. And librarians don't want to be subjected to this kind of behavior, just as parents don't want to see their children to be subjected to, uh, viewing this type of material.

**Dawn:** Um.

**Ernest:** And let's remember one thing, whether you're a child or an adult, if you're using a computer, even if you're using innocuous search terms because believe me, the purveyors of pornography put things in their, uh, the mega titles, the meta titles, on that. So, you could be searching for Disneyland and bam, pops, pornography pops up. You don't have to go looking for pornography on the Internet. It comes looking for *you*.

**Dawn:** Right.

**Ernest:** All the more reason to have special protection in place when it comes to minors.

**Dawn:** Right. Um, so some libraries we've seen are not taking this special

funding. So, they, by law, don't necessarily have to have the filters in place, at least per the Children's Internet Protection Act, um, but we've seen as you said, they can still take steps to make sure that the stuff is blocked from their premises.

**Ernest:** Absolutely.

**Dawn:** But some are choosing not to. And largely it's because of the misleading information they're receiving from groups like the American Library [00:20:00] Association and the ACLU.

But what can we as citizens do? You said it receives public funds, then can we go [RQ 00:20: 08] argue for filters?

**Ernest:** Absolutely.

**Dawn:** Are we in a position to do that?

**Ernest:** Yes, because by some estimates, a third of public libraries are trying to avoid *federal* funding so that they can avoid the application of CIPA, [set by 00:20:00] the Children's Internet Protection Act. But every public library is getting public funds. They may be from the state government, they may be from local government, they may be from county, it may be a dedicated revenue source that relates to part of the property tax or the sales tax, uh, it may be from city government. The point is, every public library is receiving public funds.

So, if either the library board makes a decision on their own, we're going to use this filtering software because they have a constitutional right to do so, it's clearly established by the court case, the Supreme Court case we were discussing, *or* if the public body that provides funding puts restrictions on that funding, whether it comes from the state legislature, the city council, county commissioners, whatever entity it may be, they have the ability to create what is basically a state or local version of the Children's Internet Protection Act and condition the receipt of that federal, I'm sorry, of that local or state money, condition the receipt on utilizing this filtering software.

**Dawn:** I just want to highlight that recently this happened in Arizona, um, a couple of groups that we actually work with, um, and a few of our other, uh, anti-pornography efforts, they led efforts in Arizona and most of these people are just parents who are concerned, they have fulltime jobs and then did this on the side, but they went to the state legislature in Arizona and they got a bill passed very similar to the Children's Internet Protection Act ...

**Ernest:** Right.

**Dawn:** ... but on a state level. It stipulates that, yes, every computer that a child might possibly see or use has to be filtered, and if they receive any funding, which almost all of them receive state funding, then they have to have this.

**Ernest:** Exactly. And see [00:22:00], we provided the model. We provided the model through the federal legislation. That has been *explicitly approved* by the US Supreme Court. So what you do is you take this model and you just put it in through local law or through state law to govern the libraries that *they* fund. Uh, so, the process in that way is pretty simple.

What you have to watch out for is that, oh, the American Library Association and others will try to pull you back away from that and say, oh, it's not necessary, or, would you give this little loophole. For example, one of the little tricks they use is to say, well you have to use a filtering software *or* you have to have what they call an "acceptable use policy," ...

**Dawn:** Right.

**Ernest:** ... which is just a series of standards that they may or may not follow that frankly have no teeth to them. Okay. So they try to carve out big loopholes from the protections that are created by the Children's Internet Protection Act or that might be created by a state version or a local version of this law.

So you have to watch out for people that are trying to say oh yes, we're on

your side, but don't you think this is a little bit too strong and too severe and why don't we create some exception over here or water it down there. That's what you have to watch out for, because they employ professional lobbyists, they employ attorneys, they have people that go around and talk to lawmakers all the time and develop relationships with them and they will try to pull them away from any citizen-sponsored effort to create this protection for children.

**Dawn:** So, as citizens, we need to be aware that this is happening and likely will happen if you're able to take action here and, but there's stuff we can do to combat this and I want to highlight a couple other, um, kind of grassroots efforts that are happening around the country.

Um, just last year, a group of citizens, concerned parents, got together in Jefferson County, Colorado, and, because there was no anti-porn policy there and no [00:24:00] filters, they saw that children were viewing pornography there and they were fed up with that. So then, as parents, they went to the library board meetings and their city council meetings and then they talked to them and insisted that something be done, and after just two months of this, the library board passed a no porn policy and installed filters, so, it's easy to do this.

We're looking for people who can just take charge in your community, um, to help make sure that these laws, that filters are installed, that the laws are being followed, let us know. We've got this getting started packet we put together with the help of many other people who have been involved in this for *years*, um, to help give you the tools to make sure that your area is safe. You can go to [Safeschoolssafelibraries.com](http://Safeschoolssafelibraries.com) to learn more information about this. You can e-mail me at [grassroots@pornharms.com](mailto:grassroots@pornharms.com) and we'll be happy to send you more information.

Uh, we're really grateful for your time ...

**Ernest:** Sure.

**Dawn:** ... and all your knowledge and all your hard work ...

**Ernest:** Sure.

**Dawn:** ... in this over the years.

**Ernest:** And one final thing that people working on this issue hopefully, hopefully will remember. If a library adopts a policy to protect children such as through the Internet filter, that's good, but a policy could be changed. It might be changed by a new library director. It might be changed by a new library board. That does not have the same strength as a local *law* requiring this to be done as a condition of receiving the money or a *state law* as a condition of receiving state funding. So even though the policies are good, they are *not* as long lasting as actually putting this protection in law as a restriction on how they use public money.

**Dawn:** That is a good point and thank you ...

**Ernest:** You bet.

**Dawn:** ... for bringing it up. That's what ultimately we want and you can be the local hero in your area and make sure that there are strong laws on local levels, state levels and even the policy levels too and we want to help you with that.

We just have two minutes, I think. Maybe if there are any questions, you can send, you can chat below and Tammy here in the room with us will read them to us. Do [00:26:00] you have any now, Tammy?

**Tammy:** I have one. Who makes sure that the libraries that receive funding have filters? Is there a watchdog group or something of that nature?

**Ernest:** There's a certification requirement that involves a Federal Communications Commission on the federal level. Oh, but, I'll tell you, there is *no* watchdog that's ever as vigilant as everyday citizens who get involved in this because sometimes government watchdogs don't do what they're supposed to do.



**Dawn:** Right.

**Tammy:** And then we have one more. Given that answer, what do you think could be done to educate communities about the laws that the ALA are putting out versus what the actual law is?

**Ernest:** Sure. Well, I think that's what Morality in Media is seeking to do with the packet that Dawn has here. I looked at that. It's got a lot of great material in there. So, that's the way you have to do it. You turn to a trusted source. Uh, Dan Kleinman's group with Safelibraries.org is also excellent. So, you have to turn to these trusted sources.

**Dawn:** We'll try to help everyone who's looking for more information.

So, just one more time, websites to check out are Safelibraries.org. They have been around for a very long time in trying to educate people about the harms and dangers of libraries. Um, they have a lot of good material and they don't only deal with the issue of pornography in libraries but other dangers as well.

And then, there's our website which is Safeschoolssafelibraries.com and one last question? Anymore? Okay.

**Ernest:** Okay.

**Dawn:** Thank you everyone and again, e-mail me if you want more information, [grassroots@pornharms.com](mailto:grassroots@pornharms.com). Thank you for your time.

**Ernest:** Thanks Dawn.

### 30 ###

Speakers:

**Dawn** = Dawn Hawkins, Morality in Media and Pornography Harms

**Ernest** = Ernest Istook, author of the Children Internet Protection Act

**Tammy** = Webinar facilitator for Dawn Hawkins

Transcript timestamps are approximate.

Title of webinar featuring Ernest Istook interview:

“PornographyHarms's Camera [Recorded Tue Apr 17 13:35:18 EDT 2012]”

URL of source of webinar rebroadcast:

[http://www.livestream.com/pornographyharms/video?clipId=flv\\_c5df02fd-06fb-4108-bcba-c506a09f9f5c](http://www.livestream.com/pornographyharms/video?clipId=flv_c5df02fd-06fb-4108-bcba-c506a09f9f5c)

Cite webinar as:

Istook, Ernest. Interview with Dawn Hawkins. Pornography Harms. 17 Apr. 2012 .

Cite this transcript of webinar as:

Istook, Ernest. Interview with Dawn Hawkins. Pornography Harms. 17 Apr. 2012. Transcript. 5 Sep. 2013 .

"[Libraries Need Not Expose Kids to Porn](http://web.archive.org/web/20120302213508/http://www.sacbee.com/2012/02/27/4294010/libraries-need-not-expose-kids.html),"

by **Ernest Istook**,

*The Heritage Foundation*,

27 February 2012.

<http://web.archive.org/web/20120302213508/http://www.sacbee.com/2012/02/27/4294010/libraries-need-not-expose-kids.html>

Librarians can be strict. In Seattle, for example, you can't eat, sleep, go barefoot or be noisy in a public library. You can, however, "watch graphic porn on a public computer in front of kids," the Seattle Post-Intelligencer recently reported.

You don't need to be a literary expert to figure out that making computer porn available is not the highest and best use of limited public resources. And certainly patrons, whose tax payments keep the doors open, deserve better than to have their children exposed to hard-core pornography.

As a former chairman of a metropolitan library system, the story from Seattle appalled me. But it didn't surprise me at all.

Sadly, Seattle is following a strategy promoted by the American Library Association, which regards pornography as just a routine aspect of protecting the First Amendment. But they generally omit an important qualifier: When taxpayers are paying for the computers they have a right to insist that children are protected.

I know because I authored the federal law on this, and it has passed muster with the Supreme Court. In 2003, the high court upheld The Children's Internet Protection Act (CIPA) in *United States v. American Library Association*. Earlier federal attempts to address the problem had all been rejected by the court.

The 6-3 ruling affirmed the constitutionality of CIPA, which requires public schools and libraries that receive Internet-related federal funds to use blocking filters to restrict access to pornography.

The Supreme Court agreed that the Internet is "no more than a technological extension of the book stack." The justices wrote that each public library has "its traditional role in identifying suitable and worthwhile material; it is no less entitled to play that role when it collects material from the Internet. ... Most libraries already exclude pornography from their print collections because they deem it inappropriate for inclusion. ... It would make little sense to treat libraries' judgments to block online pornography any differently."

Because "libraries cannot possibly segregate, item by item, all the Internet material that is appropriate for inclusion from all that is not," the Supreme Court agreed that using filters to exclude categories of websites is appropriate

and constitutional.

Adults who so request may have the filter temporarily turned off, but this intervention gives librarians the opportunity to make sure no one is using an unfiltered computer in an area open to children and other patrons.

Although Congress' other approaches had been overturned, connecting this filtering requirement to receipt of federal funds was key to gaining Supreme Court approval, because use of government funds is commonly allowed to include restrictions.

Although many libraries now apply CIPA, others - encouraged by lawyers for the American Library Association - deliberately reject federal funds to avoid the requirement of filtering patrons' access to the Internet. Unconfirmed reports claim a third of our public libraries are using this tactic. They should not be criticized for not tapping into the federal Treasury, but their motivation is worrisome.

These libraries still rely upon public funds from the state or local level. Lawmakers who provide that funding have an opportunity to protect children. States and local governments can do so if they use CIPA as their model. They can require that schools and libraries funded by local and state governments must protect children from Internet porn by installing these software filters. No such filter is perfect, but they protect children and they help parents who want libraries to be safe places for their entire family.

Nobody should have the Seattle experience of shocking their children, nor of having librarians who are indifferent to the problem.

## ABOUT THE WRITER

Ernest Istook, a fellow at The Heritage Foundation, served 14 years as a Republican congressman from Oklahoma. Readers may write to him at: The Heritage Foundation, 214 Massachusetts Avenue NE, Washington, D.C. 20002; Web site: [www.heritage.org](http://www.heritage.org). Information about Heritage's funding may be found at <http://www.heritage.org/about/reports.cfm>.

This essay is available to McClatchy-Tribune News Service subscribers. McClatchy-Tribune did not subsidize the writing of this column; the opinions are those of the writer and do not necessarily represent the views of McClatchy-Tribune or its editors.

2012, The Heritage Foundation

An example of how ALA misleads communities is needed. In Palm Beach County, Florida, a teacher took her elementary public school class on a class trip to the public library across the street. The library has Internet filters and obtains funding for Internet access under the E-rate program. The students saw triple x porn on a library computer a man was using. Then, after complaining to the librarian, the teacher was told there was nothing they could do about that because of the First Amendment right to view porn in a public library. [N1] That is legally false and indicates noncompliance with CIPA. The teacher began protesting, which made the news, and that's where I got involved.

I wrote to Palm Beach County asking for a copy of Palm Beach County Attorney Denise Nieman's opinion that the media reported seemed to allow the porn viewing by making the blocking of porn so stringent that it rarely if ever could happen, quite the opposite of CIPA. I filed a FOIA request, got the opinion, then wrote the County Commissioners how they were being misled by the attorney's opinion. She responded with a scathing letter attacking me and defending her porn defense, and I responded to that. The County Attorney's opinion substantially mirrored the diktat of the American Library Association. It completely ignored *United States v. American Library Association* where CIPA was found constitutional. It even recommended privacy screens that the Court said not only do not work to control pornography but actually make the problem worse. Palm Beach County libraries will remain awash in porn while the County Attorney's opinion

remains in force, and everyone there other than the public school teacher and her friends thinks it is legally sound because no one knows better. And all because of the American Library Association taking advantage of its nationwide influence to mislead people on CIPA and library filtering.

Somehow FCC needs to clarify CIPA requirements so people can understand them and not feel the need to rely on ALA's misdirection. Had CIPA compliance been easier to understand or harder to misconstrue, intentionally or not, people in Palm Beach County would know the County Attorney's opinion letter is false, or the County Attorney might not have written the false information in the first place, and the people in the county would get the legal protection CIPA affords.

To illustrate this fully in context, here are relevant letters and emails, other than my original FOIA request. They illustrate the effectiveness of the ALA misinformation and the reason why the FCC must take effective action to stop this kind of propagandization. First, the County Attorney opinion, then my letter, then her response, then my response:

From: Denise Nieman

Sent: Friday, October 07, 2011 6:10 PM

To: Karen Marcus

Cc: Jon Van Arnem; Anne Helfant; John Callahan; Robert Weisman; Paulette Burdick P.; Shelley Vana; Steven Abrams; Burt Aaronson; Jess Santamaria; Priscilla Taylor A.

Subject: Pornography On County Library Computers

This is in response to your office's request for an opinion regarding the County's ability to regulate the viewing of pornography on computers at County libraries.

As described in more detail below, the County has gone as far as it legally

can through the installation of filters in accordance with the Federal Children Internet Protection Act (CIPA), and the issuance of a policy that prohibits the sending and displaying of obscene material as defined by Florida law. As in any area with First Amendment implications, regulation and prohibition is not absolute and must be carefully administered.

CIPA requires filters on all computers in public libraries with internet access. The filters should block internet access to visual depictions that are obscene, contain child pornography, or are harmful to minors. In accordance with CIPA, the County installed filters on all computers in County libraries with internet access. Filtering systems are not foolproof. The filters may capture websites that were not intended to be captured and may release websites that should be filtered. Additionally, e-mails and attachments to e-mails are not filtered, and an adult patron can request the filter be removed when viewing legal material or for conducting bona fide research. To that end, pornography and pictures that depict nudity are not necessarily illegal. As such, a library employee cannot prohibit viewing the material, unless it meets the definition of obscene as defined in Florida Statute, Chapter 847.

The County issued PPM #: CL-1107 (copy attached), which prohibits a user from sending or displaying obscene material on County library computers, as defined in the above-mentioned statute. Material is obscene when: “(a) the average person, applying contemporary community standards would find, taken as a whole, appeals to the prurient interest; (b) depicts or describes, in a patently offensive way, sexual conduct as specifically defined herein; and (c) taken as a whole, lacks serious literary, artistic, political or scientific value.”

Library staff must make a determination whether the material being displayed qualifies as obscene as defined above. If library staff determines the material meets the definition of obscene, the user can be required to turn it off, he or she may lose computer or library privileges, and may face possible arrest and prosecution. However, since the definition of obscene leaves a lot of discretion to the person making the determination, the material is usually declared obscene only when it is clear the community would find it appeals to the prurient interest. U.S. Supreme Court Justice Potter’s infamous quote comes to mind regarding what is pornographic and the difficulty in defining

it, "I know it when I see it." What constitutes pornography is very subjective.

Inappropriate, indecent or sexually explicit materials that do not fit under the definition of obscene may not be restricted by the County because such material is protected under the First Amendment of the U.S. Constitution. As such, county employees must be careful in making determinations regarding whether material is obscene, as improperly denying someone the right to review material, which is not obscene, could result in a lawsuit against the County.

In conclusion, the County may prohibit patrons from reviewing pornographic material, as long as the material falls within the definition of obscene as set forth in Chapter 847, Florida Statutes. However, since the definition of obscene leaves a lot of discretion with the person making the determination county employees must be careful when denying patrons access to material. Library staff has tried to minimize or eliminate the viewing of pornographic material by enacting internet browser filters, as well as physical filters for computer screens. Further, privacy screens are available, and the Library intends to institute an internet access agreement for patrons using the county's computers similar to what is in place for wi-fi users, essentially putting users on notice of acceptable use and requiring the patron to agree to the terms prior to access.

According to library staff, library computers were used in excess of 1.2 million times last year and there were less than three complaints received about inappropriate viewing of material on the internet by adults. As such, complaints regarding obscene material at County libraries have been minimal.

I hope this is helpful in explaining to your constituents what the County can do and has done to minimize the viewing/display of pornography on its library computers.



From: Safe Libraries [mailto:safelibraries@gmail.com]

Sent: Wednesday, August 14, 2013 2:52 PM

To: SAbrams@pbcgov.org; ptaylor@pbcgov.org; HValeche@pbcgov.org; pburdick@pbcgov.org; svana@pbcgov.org; MBerger@pbcgov.org; jsantama@pbcgov.org

Cc: Jill Sheffield; Denise Nieman; bellegladees@palmbeachschools.org; callahanj@pbclibrary.org; jmuoio@wpb.org; smoffett@wpb.org; irobinson@wpb.org; kmitchell@wpb.org; kjames@wpb.org; smaterio@wpb.org; swilson@belleglade-fl.com; dbuff@belleglade-fl.com; mbuczyner@cbs12.com; michelewright@cbs12.com; RWeisman@pbcgov.org; public@co.palm-beach.fl.us; Anne Helfant; Nicole Hughes; Jon Van Arnam; Heather Shirm C.; David Kelly A.; Lisa DeLaRionda; lionel@lionelmedia.com

Subject: Response to Palm Beach County Attorney Opinion on Public Library Porn

Dear Palm Beach County Commissioners,

Your county citizens are being harmed as a direct result of a few people in the right places to mislead everyone else about the law relating to public libraries and blocking pornography. The potential for municipal liability is great but is being hidden from you in an effort to intentionally mislead you. You have the ability to learn the truth then begin the process of reversing course before further harm befalls your citizens, though it may be too late to ward off liability given the circumstances of the elementary school children having already seen xxx porn in the public library and the library refusing to act claiming First Amendment rights. Yes, libraries have a veil of autonomy precisely to protect them from political control, but that veil only extends to lawful activities, not unlawful ones, and a library that operates as an open public forum instead of a limited public forum is acting outside the law of the US Supreme Court and most likely local law. The government must then step

in and, without piercing the veil of autonomy, force the library to act within the law.

I am Dan Kleinman of SafeLibraries. I have been educating communities about how they are being misled on the issues of porn in public libraries for over a decade. The American Library Association views me as its top critic. I am not a filtering advocate. Neither will I tell you what to do in your community. And I am not a "censor." What I advocate is that communities should not be misled about the law so as to shoehorn them into doing what the American Library Association and its local acolytes want. If, after learning the truth, the whole truth, and nothing but the truth about filtering pornography from public libraries, you chose to continue to allow your community to access pornography on the computers in your public libraries, that's your choice and your liability risk. But at least it will be an informed decision, not a misinformed one based on a message perfectly crafted to mislead you into doing what the American Library Association wants. Feel free to contact me personally to discuss these issues. You'll see I am not intimidated by people misleading others into violating the law and harming children, and I'm hoping to help you to shake off any reluctance to do what you know is right by you and your community.

Turning now to the legal opinion of Denise Nieman, Palm Beach County Attorney. It is interesting but fatally flawed. As I read it, I get the impression it consists largely of what the library director or the American Library Association taught her about how the library works. It evidences to me that she did not read *United States v. American Library Association* ( <http://laws.findlaw.com/us/539/194.html> ) because she does not cite it and she makes statements that go 100% counter to the case. Yet *US v. ALA* is central to this matter. I urge you to read the case all the way through. That Denise Nieman does not cite *US v. ALA* in an opinion about filtering pornography from public libraries and instead recommends against what it holds is intentional, unethical, or both, in my opinion. In any case, her opinion should not be used to guide your actions, and I am about to specify exactly why.

The interesting part of her opinion is that it leaves what is obscene up to the

librarian. The American Library Association advises what is obscene is up to a court to decide, not librarians: "Only courts have constitutional authority to determine, in accordance with due process, what materials are obscenity...." Source: "Guidelines and Considerations for Developing a Public Library Internet Use Policy," by Office for Intellectual Freedom, American Library Association, June 1998, updated November 2000 ( <http://www.ala.org/Template.cfm?Section=otherpolicies&Template=/ContentManagement/ContentDisplay.cfm&ContentID=13098> ).

The ALA goes on to say librarians cannot determine what is obscene and should not get involved in such decisions: "As for obscenity and child pornography, prosecutors and police have adequate tools to enforce criminal laws. Libraries are not a component of law enforcement efforts naturally directed toward the source, i.e., the publishers, of such material."

So it is interesting to see the County Attorney says something different from the ALA: "Library staff must make a determination whether the material being displayed qualifies as obscene.... If library staff determines the material meets the definition of obscene, the user can be required to turn it off, he or she may lose computer or library privileges, and may face possible arrest and prosecution."

Apart from that, the County Attorney's opinion is essentially the ALA's opinion. Compare: "A very small fraction of those sexually explicit materials is actual obscenity or child pornography, which are not constitutionally protected. The rest, like the overwhelming majority of materials on the Internet, [sic] is protected by the First Amendment" with "Inappropriate, indecent or sexually explicit materials that do not fit under the definition of obscene may not be restricted .... because such material is protected under the First Amendment of the U.S. Constitution." Can you tell who said what? No, they are essentially the same. The latter is the County Attorney parroting the words of the ALA from 2000.

Again, that ALA diktat is from 2000, though ALA still holds it out as current guidance on drafting public library Internet use policy. In 2003, the US Supreme Court effectively obviated that ALA diktat, but ALA does not advise

that and neither does the County Attorney despite her legal duty to do so. In 2003, *US v. ALA* said, "public libraries' use of Internet filtering software does not violate their patrons' First Amendment rights...." And it decided this applies to all libraries. Only after deciding this did it apply that rule to the application of CIPA, and CIPA was found constitutional. I say this because the anti-filtering misleaders openly say the case does not apply if the library is not being funded under the Children's Internet Protection Act [CIPA] with E-rate funds for Internet Access, which is relevant to CIPA funding compliance.

All the talk in the legal opinion about obscenity is nice and lovely but it is moot. When it comes to public libraries, "public libraries' use of Internet filtering software does not violate their patrons' First Amendment rights...." That's in the first sentence of *US v. ALA*. The County Attorney does not mention that, does not even mention *US v. ALA*. That's remarkable and it may be unethical. It appears that she read the ALA diktat from 2000 or just took it from the library director and did no independent research of her own. None. How do you miss a ten year old US Supreme Court case that is right on point and instead rely on older law that allows a completely different result? When the County Attorney says, "Inappropriate, indecent or sexually explicit materials that do not fit under the definition of obscene may not be restricted by the County because such material is protected under the First Amendment of the U.S. Constitution," that is 100% false because "public libraries' use of Internet filtering software does not violate their patrons' First Amendment rights...." This is also false: "As such, a library employee cannot prohibit viewing the material, unless it meets the definition of obscene as defined in Florida Statute, Chapter 847."

I would call this an ethics violation, to give an opinion that is essentially the dogma of an out-of-state organization that says librarians should not get involved with determining what is obscenity or child pornography. The ALA has been called out on dogma before. See "Library Porn Removal Roadmap; NCRL Director Dean Marney Details How to Legally Remove Legal Porn from Public Library Computers and Advises that the ALA Relies on Outdated Dogma" ( <http://safelibraries.blogspot.com/2010/11/library-porn-removal-roadmap-ncrl.html> ).

The County Attorney's opinion is based on old law no longer applicable. It omits current law from the US Supreme Court on First Amendment jurisprudence as related to public libraries and specifically filtering pornography. That is a fatal flaw.

And there is further evidence that corroborates what I just said. The County Attorney actually makes recommendations that the US Supreme Court said will not only fail to solve the problem, but actually make it worse. The County Attorney is recommending solutions that will make the problem worse. There is simply no excuse for this. This has to be an ethical violation. And it would signal to me if I were a county commissioner that I need not follow such an unethical opinion.

Specifically, the County Attorney says, "Library staff has tried to minimize or eliminate the viewing of pornographic material [with] physical filters for computer screens. Further, privacy screens are available...." What the attorney did not advise is the exact opposite from the US Supreme Court: "In any case, the suggested alternatives have their own drawbacks. [I]nstalling privacy screens or recessed monitors, would not address a library's interest in preventing patrons from deliberately using its computers to view online pornography. To the contrary, these alternatives would make it easier for patrons to do so."

Wow! Are the County Attorney's other legal opinions this similarly flawed? I am not a Florida attorney, but if I were, I would likely have an ethical duty to take this straight to the attorney ethics board, likely under Rule 4-8.3 Reporting Professional Misconduct.

"I hope this is helpful in explaining to your constituents what the County can do and has done to minimize the viewing/display of pornography on its library computers." Actually, this is basically an admission against interest since the "obscenity" standard is being applied instead of the US v. ALA standard, so any CIPA funding obtained for Internet Access may have been obtained fraudulently. And the CIPA law is not being applied in the library as evidenced by the librarian saying they cannot stop the viewing of porn as that

would be a First Amendment violation. Isn't that the very purpose of CIPA? Doesn't that go against the holding of US v. ALA? And CIPA non-compliance may also be evidenced by the children being harmed. Less likely but possibly librarians have been sexually harassed too as a result of near unfettered porn and the library's policy and are simply afraid to speak up. I know many librarians afraid to speak up about library management allowing unlimited porn.

Did the County Attorney advise of liability due to sexually harassed employees and librarians in libraries that allow unlimited porn? No. Of course not. But she did advise of the potential for suit due to filtering porn: "As such, county employees must be careful in making determinations regarding whether material is obscene, as improperly denying someone the right to review material, which is not obscene, could result in a lawsuit against the County." How many lawsuits from blocking porn have occurred since US v. ALA in 2003. Zero. None. The attorney makes a false conclusion using the false obscenity standard, then says suit may occur under that false standard, which it never has, and leaves out that no suits for blocking porn have occurred under the US v. ALA standard. And to sink the hook, the County Attorney leaves out that libraries that allow unlimited porn get sued for major money. And not just the libraries but the municipalities as well. For just one example, see Wilson v. Birmingham Public Library ( <http://safelibraries.blogspot.com/2012/08/SexuallyHarrassedLibrarianGets150K.html> ) that settled for \$150,000 right before trial.

Had Palm Beach County known they have every legal right to block porn, there have been no suits for doing so, and there have been major losses for the failure to block porn, people might have been properly informed instead of misinformed, and they might have chosen to block porn, keep it blocked even upon request for an unblock, and the teacher's third grade students might not have seen the xxx porn on the computers of the library across the street during a class trip to the library. This is how harmful is the County Attorney's false opinion. She is in the right position to mislead the entire community into allowing the illegality that causes the resultant harm.

Okay, I understand it may be too much to believe me versus a "sparkly"

County Attorney ("County Attorney Denise Nieman Embraces Her Sparkly Side in New Book" <http://www.pbpulse.com/news/entertainment/books-literature/county-attorney-denise-nieman-embraces-her-sparkly/nN6jZ/> ) when I reveal the County Attorney has provided what may be an unethical legal opinion enabling the unfettered porn in the public library to continue. I get that. But I'm not the only one saying that. None other than the author of the Children's Internet Protection Act is saying that as well. He is about as authoritative as you can get on this matter. He said, regarding the Seattle Public Library, "Sadly, Seattle is following a strategy promoted by the American Library Association, which regards pornography as just a routine aspect of protecting the First Amendment. But they generally omit an important qualifier: When taxpayers are paying for the computers they have a right to insist that children are protected."

Did the County Attorney advise anyone in Palm Beach County about what the CIPA author said? Aren't you paying her for services to the county instead of to the American Library Association? Read what the CIPA author said for yourselves, from my own resources, because you won't hear this from the County Attorney (nor the library director): "CIPA Author Exposes ALA Deception; Ernest Istook Who Authored Children's Internet Protection Act Calls Out American Library Association for Using Legal Tactics to Claim First Amendment Protection for Public Library Pornography Viewing, Causing Librarians to Be Indifferent and Leave Children Unprotected" ( <http://safelibraries.blogspot.com/2012/02/cipa-author-exposes-ala-deception.html> ).

Let me sum up. The County Attorney (and also the library director) is seriously misleading on the issue of porn in the public library. What the library director is doing to mislead people with "Electronic Access to Information PPM# CLO-1107" is reprehensible but there is little recourse other than replacing him and replacing any library board of trustee members who support his misdirection. And library boards of trustees are specifically trained by the American Library Association and local state library associations to enable porn in public libraries by, you guessed it, ignoring the holding of *US v. ALA*, this time regarding how public libraries are not open public fora where anything goes. See: "How State Library Associations

Endanger Children; NJ Libraries and You: Not Perfect Together" (<http://safelibraries.blogspot.com/2013/08/LibraryAssociations.html> ).

The County Attorney is different. Denise Nieman cannot just lie like a library director and get away with it. She has professional ethical obligations to fulfill. As explained, it appears to me that she has seriously failed in her ethical obligations in a manner that is directly causing harm to Palm Beach County children and other victims of unfettered porn in the public libraries. If I were a Florida attorney, I would immediately bring ethics charges against her with the hope that she either stop misleading the public on the law regarding public library porn or that she have her license suspended or the like, then be removed from office, no matter how "sparkly" she may be. Should her job be protected at the expense of the children (and librarians) likely suffering as a result of her legal opinion? Those elementary school children who saw the xxx porn in the public library may be scarred for life, and no one is willing to challenge the attorney for her seriously flawed legal opinion that may have indirectly enabled that harm and continuing harm? Are there no advocates for the children, other than a single local elementary school teacher? You, Palm Beach County Commissioners, must do what you know is right, and I hope I have provided you with at least enough of a head start on the legal issues in public libraries so that you can hit the ground running and solve the problem.

Further, there is a significant chance under the circumstances that CIPA E-rate fraud has and will continue to take place if compliance with the County Attorney's advice is not immediately halted and reversed. Are there no consequences for falsely certifying to the federal government?

Lastly, let me add that while libraries enjoy a veil of autonomy, that veil only extends to lawful activities, not unlawful ones, and there's no law that requires the library to provide access to porn. The government must then step in and, without piercing the veil of autonomy, force the library to act within the law. The real law, not the smoke screen provided by the County Attorney (and the library director and library trustees). And do it quickly before those elementary school children who witnessed the xxx porn bring suit after the damage has manifested itself, though it may be too late to prevent such



litigation.

Respectfully submitted,

Dan Kleinman of SafeLibraries, Chatham, NJ

Denise Nieman

Aug 22

to Steven, Priscilla, Hal, Paulette, Shelley, MaryLou, Jess, Jill, bellegladees, John, jmuoio, smoffett, irobinson, kmitchell, kjames, smaterio, swilson, dbuff, mbuczyner, michelewright, Robert, Public, Anne, Nicole, Jon

Dear Mayor, Vice-Mayor and Commissioners,

This is in response to the extremely unprofessional and offensive email you received last week from Dan Kleinman of SafeLibraries, located in New Jersey. My first reaction was to ignore it, and then I thought about replying with the very same words he posted online when he was confronted with a similar hostility: "...I'm not responding to attack dog Fang-Face...it's pure vitriol and venom. I happily respond to people...but there's a limit when someone is as...mean-spirited as he is and as...absolutely wrong and misleading as he is. Obviously he is hiding something if attacking me...is more important than addressing the issues involved." (Granted, this comment was made in 2008 and Mr. Kleinman's position on civility apparently has changed since then.) In any event, since many individuals were copied on his now public email calling my opinion into question, I ultimately decided that a response addressing the main issues was warranted to set the record straight.

By way of background and context, Mr. Kleinman's attack was fueled by recent media coverage featuring a teacher who claimed that her third grade students were exposed to porn while visiting the library on a class trip. What

Mr. Kleinman characterizes as “xxx porn” was actually, according to library staff, a music video being viewed by a library patron that showed scantily-clad women dancing in the background. Although such an image may be offensive to some, it is clearly not obscene in the eyes of the law, which is the controlling factor here.

On that note, be assured that the U.S. Supreme Court opinion mentioned by Mr. Kleinman, *United States v. American Library Association*, was not overlooked. It was reviewed and analyzed, along with many other relevant court opinions on this serious subject. The case stands for the proposition that it is not a violation of the First Amendment to place filters on computers as required by the Children Internet Protection Act (CIPA). The County has installed filters on all the computers in its libraries that offer internet access. These filters should block access to visual depictions that are obscene, contain child pornography, or are harmful to minors. The County’s practice is consistent with the various judicial rulings and the law, contrary to Mr. Kleinman’s reckless and baseless claims.

Mr. Kleinman goes on to state, “All the talk in the legal opinion about obscenity is nice and lovely but is moot.” While I appreciate the positive feedback, the discussion of obscenity is anything but moot, since the filters are not foolproof and may not capture websites that should be filtered. Further, e-mails and attachments to e-mails are presently not filtered (the County is in the process of securing software that would do this).

Additionally, CIPA provides that an adult patron can request removal of the filter if viewing legal material or when conducting bona fide research. When material is not captured through the filter and an issue is brought to the librarian’s attention, a determination must be made whether the material is in fact obscene. If the material does not meet the definition of obscene, then such content is protected under the First Amendment and may not be restricted. There is a long line of cases that supports this position, but the unrestricted access only comes into play when the filters have not captured the particular picture or information in question.

Mr. Kleinman also states, “...any CIPA funding obtained for Internet Access may have been obtained fraudulently. And the CIPA law is not being applied

in the library as evidenced by the librarian saying they cannot stop the viewing of porn as that would be a First Amendment violation.” This is also false. As mentioned above, CIPA requires filters to be placed on computers with internet access, which the County has done, and a librarian, when notified, is only required to determine whether content is obscene when the filters did not capture a particular picture or information. The County obtained CIPA funding legitimately and is otherwise in compliance with this law.

Simply put, it is Mr. Kleinman’s opinion that is “fatally flawed.” The opinion I issued in 2011 continues to be legally sound for the reasons set forth above. Absent questions from any of you (County Commissioners), I consider this matter closed.

Denise Marie Nieman  
Palm Beach County Attorney

Safe Libraries  
Aug 27

to Denise, Steven, Priscilla, Hal, Paulette, Shelley, MaryLou, Jess, Jill, bellegladees, John, jmuoio, smoffett, irobinson, kmitchell, kjames, smaterio, swilson, dbuff, mbuczyner, michelewright, Robert, Public, Anne, Nicole

Dear Palm Beach County Commissioners,

Palm Beach County Attorney Denise Nieman has responded to my previous email on the harm in the library and the potential for Palm Beach County liability by further entrenching her misleading information, converting her misdirection from negligent to intentional. As President Obama said in his 21 August 2010 weekly radio address, "The only people who don't want to disclose the truth are the people with something to hide."

As I read her response, the saddest part is she leads off with a left-handed attack on the teacher who reported the porn in the public library that the children viewed. It's the attorney's first substantive response to what I wrote. She said, "What Mr. Kleinman characterizes as 'xxx porn' was actually, according to library staff, a music video being viewed by a library patron that showed scantily-clad women dancing in the background." This shows 1) she did not speak with the teacher who told me it was xxx anal sex porn, 2) she does not care to speak with the teacher because she already has a pat excuse for allowing porn despite the legal means to block it from libraries, and 3) she is tacitly calling the teacher out for judging a music video as porn. Also, the County Attorney did not take action to subpoena the Internet records of the library to determine exactly what web site was being viewed. So her first substantive response was basically to question the teacher's actions and motivations. Would the teacher have protested as she did about a music video? Would her students have spoken with her as they did about a music video? I spoke with the teacher. She told me it was xxx porn, specifically anal sex. Third graders seeing anal sex. That's no music video, not even one with Miley Cyrus. And if the library staff told her it was a music video, then that's also a problem. Given what the teacher said, according to the WCBS12 report, the County Attorney should have investigated more rather than merely accepting the library's view as the only truth.

Ms. Nieman goes on, "Although such an image may be offensive to some, it is clearly not obscene in the eyes of the law, which is the controlling factor here." This is where she doubles down on the false information. Did she reconsider at all based on the legal information I provided about *US v. ALA* and *Bradburn v. NCRL*, etc.? Apparently not. She still maintains that obscenity "is the controlling factor." It is not. Simply read *US v. ALA* for yourselves to see obscenity is not the issue and libraries may legally block pornography, whether or not it is viewed by the courts or by the librarians as obscene. You don't need a decision that something is obscene to block it from the library.

She protests that *US v. ALA* was not overlooked by her. Yet it does not appear in her opinion, she recommended something in her opinion that goes

directly counter to the case, and even now she still holds out obscenity as "the controlling factor here." She states conclusively, "The County's practice is consistent with the various judicial rulings and the law," yet she does not address why the librarian who was asked by the teacher to stop the porn said nothing could be done due to the First Amendment. Remember, *US v. ALA* said, "public libraries' use of Internet filtering software does not violate their patrons' First Amendment rights," so such a statement from the librarian is 100% counter to the law and Ms. Nieman does not address that. Instead she concludes everything is fine, move along. She is misleading you, in my opinion.

Speaking of which, Ms. Nieman restates CIPA in a misleading fashion. She says, "CIPA provides that an adult patron can request removal of the filter if viewing legal material or when conducting bona fide research." That is not CIPA. That's like the American Library Association saying you cannot block "constitutionally protected material" when in reality *US v. ALA* allows libraries to do just that. Under Ms. Nieman's misstatement, pornography, being legal material, may be viewed in the library. Yet the entire *US v. ALA* case went into great detail about how libraries have traditionally excluded pornography, and the use of Internet filters changes little. Suddenly we are mislead to believe that CIPA filters may be turned off for viewing the very material CIPA was designed to block, per *US v. ALA*. And here's Ms. Nieman, in the face of a substantive challenge, continuing to mislead on this key issue, then concluding, "Absent questions from any of you (County Commissioners), I consider this matter closed."

CIPA actually says, "An authorized person may disable the blocking or filtering measure during use by an adult to enable access for bona fide research or other lawful purposes." "Lawful purposes," not "legal materials." Since *US v. ALA* specifically discussed that libraries have always and may always continue to block porn, including with Internet filters, because libraries are not open public fora where anything goes, then a supposedly CIPA compliant library that allows the very porn *US v. ALA* proscribed is not allowing porn for a "lawful purpose," is it. What's the point of CIPA and *US v. ALA* if you can simply ask to have your porn unfiltered? Yes, people have a right to view anal sex, but there is no right to view it in a public library,

despite what Ms. Nieman has said or implied.

Lastly, her claims of CIPA compliance can be dismissed where she does not even restate the law accurately.

So for the above reasons, it remains my opinion that Ms. Nieman is misleading your community in a fashion that allows for the possibility of significant liability, let alone all the harm done as a result of nearly unlimited access to porn despite having filters. The filters simply are not being applied as required by CIPA. The teacher was protesting her elementary school students seeing anal sex porn, not music videos.

That said, I find it remarkable how Ms. Nieman choose to attack me with something from half a decade ago. She said she was going to ignore me, then she investigated me to make you laugh at me because ridicule is a powerful means to convince people to ignore substantive issues, then she attacked me and even the Palm Beach County school teacher who had the gall to think a music video was anal sex porn. Ms. Nieman was involved in the 2004 Bush v. Gore matter and the alleged Rush Limbaugh "war on women," so I think she could have addressed the issues truthfully and without ad hominem argument. I find it telling that she has written such a strident email, apparently to cover up her porn-enabling misinformation. As Gandhi said in 1918, "First they ignore you, then they laugh at you, then they fight you, then you win.

Please again consider taking action regarding porn in the library despite what Denise Nieman may have misled you to believe. Will Ms. Nieman pay all the potential liability from sexual harassment suits and the like that may result from the library's unlawful policy? While you may not pierce the library's veil of autonomy, the library is not authorized to act outside the law by allowing in pornography, so you the right and duty to curtail that without violating the library's autonomy.

As Professor Gail Dines, Ph.D., said in the context of Radisson Hotels hosting the XBIZ porn conference in London next month, "Please take this letter as a warning notice regarding these risks. Should a female employee be

the victim of sexual harassment or assault, then your knowledge of these risks will increase your negligence and liability." And the same applies to your own county and local libraries, as I have shown in my previous email.

Hopefully I have exposed the risks and encouraged you to at least consider overlooking the County Attorney's misleading misinformation that has the effect of enabling porn in your public libraries and possibly many others.

If you don't make the move, no one else will, and the teacher's class will not be the last victims. You have the power to do good; use it.

Sincerely,

Dan Kleinman of SafeLibraries

Safe Libraries

Sep 12

to Denise, Steven, Priscilla, Hal, Paulette, Shelley, MaryLou, Jess, Jill, bellegladees, John, jmuoio, smoffett, irobinson, kmitchell, kjames, smaterio, swilson, dbuff, mbuczyner, michelewright, Robert, Public, Anne, Nicole

Dear Palm Beach County Commissioners,

Having received no response to my last email regarding how County Attorney Denise Nieman is most likely misleading you regarding library law, allow me to submit additional information I learned only recently.

Children Internet Protection Act [CIPA] author Ernest Istook provides details on the legislative history of CIPA that is directly relevant to your own libraries, then he details exactly how the American Libraries Association

misleads American communities that is directly relevant to how Denise Nieman may be misleading you, then he says I am a "trusted source" for information that is directly relevant to what I have written to you now and in the past.

Please see: <http://tinyurl.com/ErnestIstookInterview>

Thank you.

-Dan Kleinman of SafeLibraries

In short, I have learned from CIPA's author Ernest Istook, from *Bradburn v. NCRL*'s library director Dean Marney, from former chief obscenity prosecutor for the U.S. Department of Justice Pat Trueman [N35], from Delaware Governor Jack Markell [N166], from many others, and from personal observation that ALA misleads libraries about CIPA, school and public libraries use various means to defraud the federal government of CIPA/E-rate funding, USAC makes whistleblowing completely opaque and whistleblowing appears to have no effect on funding levels, and the very people looked to for program compliance guidelines generally remain opposed to CIPA and use any means to block its application and effectiveness.

Only the FCC has the power and the opportunity to turn the tables in favor of communities and of the law. After ten years of CIPA, the American Library Association has proven itself to be working against CIPA, against *US v. ALA*, and against local communities.

For the reasons stated above, I support making program changes that: make CIPA requirements clear enough for schools and libraries to be able to comply without seeking guidance from the American Library Association, an organization that actively thwarts CIPA compliance



with factually and legally false information presented in its policy guides, its media appearances, and elsewhere,

ensure CIPA requirements account for the confusion caused by the American Library Association misdirection, for example, its statements recommending filters may be disabled by library patrons or by library cards instead of by those required by CIPA should be effectively countered with clear direction from the FCC that only librarians may unblock sites as required by CIPA,

make clear that CIPA compliance is not met by filing papers but having no filters, having filters that are ineffective, having filters that are ineffectively managed, having a library policy that is CIPA compliant but having a noncompliant practice in reality, or disabling filters for pornography which the American Library Association calls "information" or "constitutionally protected material" with the intention of misleading libraries into violating CIPA,

clarify that porn may be blocked from libraries, that blocking porn from public libraries does not violate the First Amendment, and that material adjudicated to be obscenity is only a very small subset of the material that may be blocked from public libraries,

clarify that libraries may first review a URL to ensure it complies with library policy and that if it does not, filters need not be unblocked,

help people ensure school-issued iPads and the like are filtered not only on school premises but also in the home or any other location,

make the USAC whistleblowing more transparent with a public listing of what complaints have been filed and what were the progress and results of any investigations,

make the USAC whistleblowing process more credible by having USAC provide whistleblowers with status reports,

make the USAC whistleblowing process more useful by allowing whistleblowers an opportunity to see the responses of the libraries and to be able to submit responses, and have those responses considered, and

make the USAC actually enforce CIPA requirements both during the application process and after libraries have received funding. As of now, there are simply no consequences for CIPA fraud, not even where an entire state has a state law that precludes CIPA compliance. Yes,

libraries should get all the funding possible from all sources, but no library should benefit from fraud. They simply need to comply or choose not to defraud the government.

There is so much more than I could include in this NPRM comment. The end notes below are categorized and contain information I had not referenced above but are equally important to this matter and are hereby incorporated by reference. Please feel free to contact me for further information.

Overall, thank you very much for making this important effort to modernizing the E-rate program for schools and libraries. It is sorely needed.

Respectfully submitted,

*/s/ Dan Kleinman*

Dan Kleinman  
Library Watchdog  
SafeLibraries  
641 Shunpike Rd #123  
Chatham NJ 07928

16 September 2013

## END NOTES

### **Evidence of CIPA Fraud in Public Libraries:**

- [N1] "[Teacher Upset Over Porn Viewing at Palm Beach County Libraries](http://www.cbs12.com/news/top-stories/stories/vid_9351.shtml)," by **Michael Buczyner**, *WPEC CBS 12*, 8 August 2013.  
[http://www.cbs12.com/news/top-stories/stories/vid\\_9351.shtml](http://www.cbs12.com/news/top-stories/stories/vid_9351.shtml)
- [N2] "[Blatant CIPA Fraud in Pierce County Library in Policy and Practice Caught On Video](http://safelibraries.blogspot.com/2012/11/BlatantCipaFraud.html)," by **Dan Kleinman**, *SafeLibraries*, 23 November 2012. <http://safelibraries.blogspot.com/2012/11/BlatantCipaFraud.html>
- [N3] "[Library Director Admits Keeping Police in the Dark in Gilbert, Arizona; American Library Association Guidance Not To Inform Police May Be the Reason](#)," by **Dan**

**Kleinman**, *SafeLibraries*, 2 June

2011. <http://safelibraries.blogspot.com/2011/06/library-director-admits-keeping-police.html>

- [N4] "[Michigan Libraries at Risk of Massive E-Rate Fraud; Michigan Library Privacy Act May Need Amending](#)," by **Dan Kleinman**, *SafeLibraries*, 18 April 2011. <http://safelibraries.blogspot.com/2011/04/michigan-libraries-at-risk-of-massive-e.html>
- [N5] "[Tacoma Library Crime Rampant; Library Director Once Chased Pedophile Out of the Library and Across a Parking Lot While Wearing Her High Heels; Library Itself Partly to Blame and May Be Committing Fraud](#)," by **Dan Kleinman**, *SafeLibraries*, 9 February 2011. <http://safelibraries.blogspot.com/2011/02/tacoma-library-crime-rampant-library.html>
- [N6] "[Library Hostile Environment Lawsuits in St Cloud, MN, and Birmingham, AL, for Title VII Sexual Harassment; Wilson v. Birmingham Public Library Foundation; ALA May Be At Fault and Should Be Sued](#)," by **Dan Kleinman**, *SafeLibraries*, 18 January 2011. <http://safelibraries.blogspot.com/2011/01/library-hostile-environment-lawsuits-in.html>
- [N7] "[Library Leaves Pedophile Free to Molest Other Children; King County Library System Defrauds Taxpayers of \\$1,158,253 from CIPA Program; Media Investigation Needed](#)," by **Dan Kleinman**, *SafeLibraries*, 4 October 2010. <http://safelibraries.blogspot.com/2010/10/library-leaves-pedophile-free-to-molest.html>
- [N8] "[Jail for Library Child Porn Viewer; Unfiltered Brownsville Public Library May Be Committing CIPA Fraud](#)," by **Dan Kleinman**, *SafeLibraries*, 6 January 2010. <http://safelibraries.blogspot.com/2010/01/jail-for-library-child-porn-viewer.html>
- [N9] "[Porn in Brooklyn Public Library; Frustrated Patron Provides Photographic Proof; Library Refuses to Act; Two and a Half Million Dollars in Jeopardy Due to Possible Fraud](#)," by **Dan Kleinman**, *SafeLibraries*, 8 December 2009. <http://safelibraries.blogspot.com/2009/12/porn-in-brooklyn-public-library.html>

## **Evidence of How ALA and ALA Acolytes Mislead Communities About CIPA:**

- [N20] "[How State Library Associations Endanger Children; NJ Libraries and You: Not Perfect](#)

- [Together](http://safelibraries.blogspot.com/2013/08/LibraryAssociations.html)," by **Dan Kleinman**, *SafeLibraries*, 13 August 2013. <http://safelibraries.blogspot.com/2013/08/LibraryAssociations.html>
- [N21] "[Filtering and the First Amendment: When Is It Okay to Block Speech Online?](#)," by **Deborah Caldwell-Stone**, *American Library Association*, 26 June 2013.
- [N22] "[Smug Gering Public Library Director Diane Downer Touts ALA Porn Policy](#)," by **Dan Kleinman**, *SafeLibraries*, 11 June 2013. <http://safelibraries.blogspot.com/2013/06/SmugSmile.html>
- [N23] "[Ethics Complaint Against Library Attorney Ann Grossi for Misleading Roxbury and Montville, NJ](#)," by **Dan Kleinman**, *SafeLibraries*, 13 May 2013. <http://safelibraries.blogspot.com/2013/05/AnnGrossiEthicsComplaint.html>
- [N24] "[How to Filter Public Library Computers: Bradburn v NCRL Shows Libraries Need Not Approve Unblock Requests](#)," by **Dan Kleinman**, *SafeLibraries*, 25 April 2013. <http://safelibraries.blogspot.com/2013/04/HowToFilterLibraryComputers.html>
- [N25] "[ALA Listed As Top Facilitator of Porn in America and a Leading Contributor to Sexual Exploitation of Women](#)," by **Dan Kleinman**, *SafeLibraries*, 29 March 2013. <http://safelibraries.blogspot.com/2013/03/DirtyDozenALA.html>
- [N26] "[Debate Challenge to Gothamist Ben Yakas About His False Claim of Right to Porn in Public Libraries](#)," by **Dan Kleinman**, *SafeLibraries*, 5 January 2013. <http://safelibraries.blogspot.com/2013/01/DebateChallenge.html>
- [N27] "[Legal issues: CIPA & Filtering](#)," by Unnamed (presumably **ALA Office for Intellectual Freedom**), *American Library Association*, circa August 2012. [http://www.ala.org/advocacy/intfreedom/ifttoolkits/litoolkit/legalissues\\_CIPA\\_filtering](http://www.ala.org/advocacy/intfreedom/ifttoolkits/litoolkit/legalissues_CIPA_filtering)
- [N28] "[Children's Internet Protection Act Author Ernest Istook Interviewed](#)," interview of **CIPA Author Ernest Istook** by **Dawn Hawkins**, *Morality in Media*, 17 April 2012:

Watch [live streaming video](#) from [pornographyharms](#) at livestream.com

<http://livestre.am/1yX4K>

<http://tinyurl.com/ErnestIstookInterview>

- [N29] "[CIPA Author Exposes ALA Deception; Ernest Istook Who Authored Children's Internet Protection Act Calls Out American Library Association for Using Legal Tactics to Claim First Amendment Protection for Public Library Pornography Viewing, Causing Librarians to Be Indifferent and Leave Children Unprotected](#)," by **Dan Kleinman**, *SafeLibraries*, 27 February 2012. <http://safelibraries.blogspot.com/2012/02/cipa-author-exposes-ala-deception.html>
- [N30] [See N89] "[ALA Admits Library Filters Work; Barbara Jones Bursts Her Own Breast Cancer Bubble](#)," by **Dan Kleinman**, *SafeLibraries*, 3 February 2012. <http://safelibraries.blogspot.com/2012/02/ala-admits-library-filters-work-barbara.html>
- [N31] "[ALA OIF's Barbara Jones Misleads Entire Nation to Think Library Porn is Not a Problem While Library Filters Are](#)," by **Dan Kleinman**, *SafeLibraries*, 26 January 2012. <http://safelibraries.blogspot.com/2012/01/ala-oifs-barbara-jones-misleads-entire.html>
- [N32] "[Libraries, Sexual Content and the Internet: Striking a Balance Between Rights, Access, And Comfort](#)," by **Barbara Jones of ALA Office for Intellectual Freedom**, *Huffington Post*, 25 January 2012. [http://www.huffingtonpost.com/barbara-jones/post\\_2901\\_b\\_1231610.html](http://www.huffingtonpost.com/barbara-jones/post_2901_b_1231610.html)
- [N33] "[Library Porn Removal Roadmap: NCRL Director Dean Marney Details How to Legally Remove Legal Porn from Public Library Computers and Advises that the ALA Relies on Outdated Dogma](#)," by **Dan Kleinman**, *SafeLibraries*, 15 November 2010. <http://safelibraries.blogspot.com/2010/11/library-porn-removal-roadmap-ncrl.html>
- [N34] "[Children's Internet Protection Act \(CIPA\) Legal FAQ](#)," by Unnamed (presumably **ALA Office for Intellectual Freedom**), *American Library Association*, 25 March

2010. <http://www.ala.org/advocacy/advleg/federallegislation/cipa/cipalegalfaq>

- [N35] "[ALA Ruse Keeping Porn Widely Available and Media Inaccuracies Force Council Bluffs, Iowa, Citizens to Endure Public Library Porn,](#)" by **Dan Kleinman**, *SafeLibraries*, 25 August 2008. <http://safelibraries.blogspot.com/2008/08/ala-ruse-keeping-porn-widely-available.html>
- [N36] "[Librarian Responds to Allegations Against Library; Chief Librarian Cites First Amendment Rights,](#)" by **WFSB.com**, *Channel 3 Eyewitness News*, 23 May 2008. <http://web.archive.org/web/20101208192354/http://www.wfsb.com/news/16379317/detail.html>
- [N37] "[Library Director Lies to Stop Filters; Desperate Move to Mislead Public Contradicts the Library's Own Policy,](#)" by **Dan Kleinman**, *SafeLibraries*, 18 April 2008. <http://safelibraries.blogspot.com/2008/04/library-director-lies-to-stop-filters.html>

### **Evidence of How ALA and Library Media Oppose CIPA:**

- [N40] "[FAIFE Newsletter; The Office for Intellectual Freedom at the American Library Association,](#)" by **ALA OIF Director Barbara Jones**, *IFLA*, Issue 5: August 2013: <http://tinyurl.com/FAIFEaug2013>(Filters are a HUGE issue here in the USA and we are trying very hard to contain the damage caused by them (in my opinion)). □
- [N41] "[Washington Library Wins Suit to Leave Filters On,](#)" by **Blake Carver**, *LISNews*, 11 April 2012. [http://lisnews.org/washington\\_library\\_wins\\_suit\\_to\\_leave\\_filters\\_on](http://lisnews.org/washington_library_wins_suit_to_leave_filters_on) Library Journal's former Editor-in-Chief Francine Fialkoff said in comments: "You and Earnest [sic] can demand that libraries take the federal money and put filters on, but no community is required to take it." "Just like people who have chosen to ignore a law [CIPA] because they don't want the odious requirements that go with it."

### **Evidence of How Communities Have to Fight Against Libraries for CIPA Compliance:**

- [N60] "[Teacher Upset Over Porn Viewing at Palm Beach County Libraries,](#)" by **Michael**

**Buczyner**, *WPEC CBS 12*, 8 August 2013.

[http://www.cbs12.com/news/top-stories/stories/vid\\_9351.shtml](http://www.cbs12.com/news/top-stories/stories/vid_9351.shtml)

- [N61] "[Councilman Ron Nirenberg Wants CIPA Filtering in the San Antonio Public Library](#)," by **Dan Kleinman**, *SafeLibraries*, 11 July 2013. <http://safelibraries.blogspot.com/2013/07/SAPL.html>
- [N62] "[Victory; Spokane County Library District Adds Internet Filters to Protect the Community; SafeLibraries Helped](#)," by **Dan Kleinman**, *SafeLibraries*, 21 September 2012. <http://safelibraries.blogspot.com/2012/09/Victory.html>
- [N63] "[Arizona 'Computer Access by Minors' Passes 89 to Zilch](#)," by **Dan Kleinman**, *SafeLibraries*, 9 April 2012. <http://safelibraries.blogspot.com/2012/04/arizona-computer-access-by-minors.html>
- [N64] "[Library Crime Spree Prompts Filtering Consideration for Library Computers](#)," by **Dan Kleinman**, *SafeLibraries*, 28 March 2012. <http://safelibraries.blogspot.com/2012/03/library-crime-spree-prompts-filtering.html>
- [N65] "[Salt Lake Library Votes to Filter All Computers For Adults; Computers For Children Had Already Been Filtered; Public and Librarians Pleased; Pornography Put Librarians In an Uncomfortable Position](#)," by **Dan Kleinman**, *SafeLibraries*, 24 March 2012. <http://safelibraries.blogspot.com/2012/03/salt-lake-library-votes-to-filter-all.html>
- [N66] "[LA Times Supports Filtering Porn from Public Libraries](#)," by **Dan Kleinman**, *SafeLibraries*, 29 December 2011. <http://safelibraries.blogspot.com/2011/12/la-times-supports-filtering-porn-from.html>
- [N67] "[Adam Morel on CNN Headline News](#)," by **Librarian Barbara Ann Wilson** and **Adam Morel, Esq.**, *HLNtv Cable News Network* via *Glenn Morel (YouTube)*, 14 September 2010. [http://youtu.be/sNqpV54iX\\_w](http://youtu.be/sNqpV54iX_w)
- [N68] "[Library Takeover Reveals Hidden Crime; Former Covina Public Library Director Roger Possner Waves Patron Policy as Evidence Crimes Never Occurred; Library Acceptable Use Policies Do Not Work](#)," by **Dan Kleinman**, *SafeLibraries*, 9 September 2010. <http://safelibraries.blogspot.com/2010/09/library-takeover-reveals-hidden-crime.html>
- [N69] "[7-1 Vote FOR Internet Filters in Owosso, MI](#)," by **Dan Kleinman**, *SafeLibraries*, 4 July 2009. <http://safelibraries.blogspot.com/2009/07/7-1-vote-for-internet-filters-in-owosso.html>



## **Evidence of How Communities Not CIPA Complaint are Harmed by Noncompliance:**

- [N80] "[US DOJ Indicts Public Library Child Porn Viewer: US v. Wiggins](#)," by **Dan Kleinman**, *SafeLibraries*, 18 July 2013. <http://safelibraries.blogspot.com/2013/07/USDOJ.html>
- [N81] "[Library Patron Laments Free Speech Freeze on People Afraid to Oppose Library Crime; Masturbating Men Leave Ejaculate at the Los Angeles Public Library](#)," by **Dan Kleinman**, *SafeLibraries*, 26 June 2013. <http://safelibraries.blogspot.com/2013/06/LAPublicLibraryCrime.html>
- [N82] "[Chicago Public Library Openly Allows Porn Despite the Law and Chicago Sun-Times Gives One-Sided Report to Maintain Status Quo](#)," by **Dan Kleinman**, *SafeLibraries*, 18 April 2013. <http://safelibraries.blogspot.com/2013/04/ChicagoPublicLibrary.html>
- [N83] "[Banned From All Libraries on Earth for Masturbating in Racine Public Library That Allows Unfiltered Internet Access; Law School Exam Question on First Amendment and Criminal Law in Public Libraries](#)," by **Dan Kleinman**, *SafeLibraries*, 16 March 2013. <http://safelibraries.blogspot.com/2013/03/LawSchoolExamQuestion.html>
- [N84] "[School Library Child Porn Arrest Story by Associated Press Features Police Expert Dr. Frank Kardasz, Thanks to SafeLibraries](#)," by **Dan Kleinman**, *SafeLibraries*, 10 March 2013. <http://safelibraries.blogspot.com/2013/03/AP.html>
- [N85] "[Sexually Harassed Librarian Gets \\$150K; Library Media Play Hide the Poppycock](#)," by **Dan Kleinman**, *SafeLibraries*, 21 August 2012. <http://safelibraries.blogspot.com/2012/08/SexuallyHarrassedLibrarianGets150K.html>
- [N86] "[Panic Buttons for Libraries](#)," by **Dan Kleinman**, *SafeLibraries*, 5 August 2012. <http://safelibraries.blogspot.com/2012/08/PanicButtonsForLibraries.html>
- [N87] "[Avert Your Eyes Jane Light Got \\$220,983 to Sexualize San Jose Children for the American Library Association](#)," by **Dan Kleinman**, *SafeLibraries*, 1 April



2012. <http://safelibraries.blogspot.com/2012/04/avert-your-eyes-jane-light-got-220983.html>

- [N88] "[Library Patron Cries Out for Justice and Library Filters Due to Porn in Lincoln City Libraries; Deep Library Love Turns to Fear](#)," by **Dan Kleinman**, *SafeLibraries*, 14 March 2012. <http://safelibraries.blogspot.com/2012/03/library-patron-cries-out-for-justice.html>
- [N89] [See N30] "[Viewing Porn in Public Libraries Spurs Debate](#)," by **Ross Reynolds**, *KUOW 94.5 FM Puget Sound Public Radio*, 1 February 2012 interview with **Barbara Jones** of **ALA Office for Intellectual Freedom** and **NCRL Library Director Dean Marney** (Interview at <http://tinyurl.com/FiltersWork>). <http://web.archive.org/web/20120203005725/http://kuow.org/program.php?id=25851> also <http://tinyurl.com/FiltersWork>
- [N90] "[Library Hostile Environment Lawsuits in St Cloud, MN, and Birmingham, AL, for Title VII Sexual Harassment; Wilson v. Birmingham Public Library Foundation; ALA May Be At Fault and Should Be Sued](#)," by **Dan Kleinman**, *SafeLibraries*, 18 January 2011. <http://safelibraries.blogspot.com/2011/01/library-hostile-environment-lawsuits-in.html>
- [N91] "[Getting Away With Murder in Holyoke, MA](#)," by **Dan Kleinman**, *SafeLibraries*, 22 July 2009. <http://safelibraries.blogspot.com/2009/07/getting-away-with-murder-in-holyoke-ma.html>
- [N92] "[Child Porn Trafficking in Public Libraries; Libraries Actively Thwart Child Porn Investigations](#)," by **Dan Kleinman**, *SafeLibraries*, 24 June 2009. <http://safelibraries.blogspot.com/2009/06/child-porn-trafficking-in-public.html>
- [N93] "[Hartford Hears a Who! Media and Mayor Chart Changes in Hartford Public Library](#)," by **Dan Kleinman**, *SafeLibraries*, 1 June 2008. <http://safelibraries.blogspot.com/2008/06/hartford-hears-who-media-and-mayor.html>
- [N94] "[Porn, Sex Crimes At Libraries; I-Team Investigation](#)," by **Dan Noyes**, *KGO-TV*, 19 November 2007. <http://abclocal.go.com/kgo/story?section=news/iteam&id=4808374>
- [N95] "[Libraries vs. Police In a Suit Sparked by Porn, Kent Case Centers on People's Rights and Protections](#)," by **Jeffrey M. Barker**, *Seattle Post-Intelligencer*, 12 August 2002. <http://www.seattlepi.com/news/article/Libraries-vs-police-in-a->

suit-sparked-by-porn-1093410.php

## **Evidence that the Federal Government Cares Not About CIPA Compliance:**

- [N100] "[IMLS: Don't Award Fraud in Public Libraries](#)," by **Dan Kleinman**, *SafeLibraries*, 17 February 2013. <http://safelibraries.blogspot.com/2013/02/AwardingFraud.html>

## **Evidence of CIPA Issues in Public School Settings:**

- [N120] "[School Districts Must Filter School-Supplied iPads; Internet Safety Law Now Extends Filtering Beyond School Grounds, Thanks to Parents in Manitou Springs, Colorado](#)," by **Dan Kleinman**, *SafeLibraries*, 20 December 2012. <http://safelibraries.blogspot.com/2012/12/SchoolsMustFilter.html>
- [N121] "[School Issued Apple iPads Allow Porn in Manitou Springs School District 14, Memorandum by Morality in Media General Counsel Robert Peters on Unfiltered Internet Access](#)," by **Morality in Media General Counsel Robert Peters**, *SafeLibraries*, 27 April 2012. <http://safelibraries.blogspot.com/2012/04/school-issued-apple-ipads-allow-porn-in.html>

## **CIPA and WiFi:**

- [N140] "[Library WiFi Ended by Porn Fine in West Bend Community Memorial Library; Acceptable Use Policies are Absolute Failures](#)," by **Dan Kleinman**, *SafeLibraries*, 29 August 2012. <http://safelibraries.blogspot.com/2012/08/LibraryWifiEnded.html>
- [N141] "[Delaware Expands CIPA to WiFi; Governor Markell Enhances Library Internet Protection for Children](#)," by **Dan Kleinman**, *SafeLibraries*, 22 June 2010. <http://safelibraries.blogspot.com/2010/06/delaware-expands-cipa-to-wifi-governor.html>

## **Efforts to Expose or Resolve CIPA Noncompliance Or Otherwise Filter**

## Libraries or Expose Crimes:

- [N160] "[CIPA Author Exposes ALA Deception; Ernest Istook Who Authored Children's Internet Protection Act Calls Out American Library Association for Using Legal Tactics to Claim First Amendment Protection for Public Library Pornography Viewing, Causing Librarians to Be Indifferent and Leave Children Unprotected,](#)" by **Dan Kleinman**, *SafeLibraries*, 27 February 2012.  
<http://safelibraries.blogspot.com/2012/02/cipa-author-exposes-ala-deception.html>
- [N161] "[Viewing Porn in Public Libraries Spurs Debate,](#)" by **Ross Reynolds**, *KUOW 94.5 FM Puget Sound Public Radio*, 1 February 2012 interview with **Barbara Jones** of **ALA Office for Intellectual Freedom** and **NCRL Library Director Dean Marney** (Interview at <http://tinyurl.com/FiltersWork>). <http://web.archive.org/web/20120203005725/http://kuow.org/program.php?id=25851> also <http://tinyurl.com/FiltersWork>
- [N162] "[Librarians are Guardians of a Trust, by Jo Ellen Ringer, Notus Public Library Director and Guest Writer,](#)" by **Notus Public Library Director Jo Ellen Ringer**, *SafeLibraries*, 10 April 2011. <http://safelibraries.blogspot.com/2011/04/librarians-are-guardians-of-trust-by-jo.html>
- [N163] "[Libraries Allowing Porn Are Wrong; Donna Rice Hughes of Enough Is Enough Explains Why,](#)" by **Dan Kleinman**, *SafeLibraries*, 28 May 2011. <http://safelibraries.blogspot.com/2011/05/libraries-allowing-porn-are-wrong-donna.html>
- [N164] "[E-Rate, CIPA, and Library Filters: What You Need to Know,](#)" by **Mary Minow** and **Lori Ayre**, *Infopeople*, 15 December 2010. Most relevant are the linked "Handouts." <http://www.infopeople.org/training/e-rate-cipa-and-library-filters>
- [N165] "[Adam Morel on FOX NEWS,](#)" by **Attorney Adam Morel**, *Fox News* via *Glenn Morel (YouTube)*, 15 September 2010. <http://youtu.be/RBVICTKWODE>
- [N166] "[Child Internet Protection in Our Libraries: Delaware Governor's Weekly Message - June 18, 2010,](#)" by **Delaware Governor Jack Markell**, *Governor Markell (YouTube)*, 18 June 2010. <http://youtu.be/eCtsAc9EmGQ>
- [N167] "[Janet Napolitano vs Dionne Mack-Harvin; Open Request for Interview with Brooklyn Public Library Director Regarding CIPA Internet Filters and \\$2.5M in Undue Federal Funding,](#)" by **Dan Kleinman**, *SafeLibraries*, 4 January

2010. <http://safelibraries.blogspot.com/2010/01/janet-napolitano-vs-dionne-mack-harvin.html>

[N168] "[Donate NOW to Protect Children in Public Libraries; Pima County, AZ, Swing Vote Up for Grabs](#)," by **Dan Kleinman**, *SafeLibraries*, 28 October 2008:

[N169] "[West Virginia Filters Libraries Statewide Using Federal CIPA Legislation - Sets Example that No Statewide CIPA Legislation Needed](#)," by **Dan Kleinman**, *SafeLibraries*, 17 September 2008. <http://safelibraries.blogspot.com/2008/09/west-virginia-filters-libraries.html>

[N170] "[Library Porn Report Inaccurate, Says Attorney](#)," by **Jeff Johnson**, *OneNewsNow*, 13 August 2008. <http://web.archive.org/web/20080816225505/http://www.onenewsnow.com/Culture/Default.aspx?id=210818>

[N171] "[Librarian Fired for Authoring Book Set in Public Library; Fiction Includes Known Sex Offenders Using Library Computers to View P-rn Near Children](#)," by **Dan Kleinman**, *SafeLibraries*, 13 August 2008. <http://safelibraries.blogspot.com/2008/08/librarian-fired-for-authoring-book-set.html>

## **ALA Censors and Blacklists Common Sense Media:**

[N180] "[YALSA Board of Directors Meeting via Conference Call, August 29, 2013; Intellectual Freedom Committee Report](#)," by **Michael Giller**, *YALSA Board of Directors, American Library Association*, August 2013. <http://tinyurl.com/ALAbblacklistsCSM>

Comment to FCC submitted here: <http://fjallfoss.fcc.gov/ecfs2/>

URL of the page: <http://safelibraries.blogspot.com/2013/09/FCC.html>